

REGULAR
NOTICE PUBLICATION/REGULATIONS SUBMISSION**ORIGINAL**(See instructions on
reverse)

For use by Secretary of State only

STD. 400 (REV. 01-08)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z- 07-0918-09	REGULATORY ACTION NUMBER 2008-0520-035	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only		In the office of the Secretary of State of the State of California	
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Department of Social Services			AGENCY FILE NUMBER (if any) ORD #0806-04

FILEDIn the office of the Secretary of State
of the State of California

JUN 30 2008

At 3:17 O'Clock P. M.

DEBRA BOWEN, Secretary of State

By [Signature]
Deputy Secretary of State2008 MAY 20 PM 1:24
OFFICE OF
ADMINISTRATIVE LAW**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER 07-#89-2	PUBLICATION DATE 9-28-2007

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) FSP Recertification Simplification and SFIS Exemptions	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT AMEND REPEAL
TITLE(S) MPP	Sections 63-300, 63-504, 63-505, and 63-601

3. TYPE OF FILING			
☒ Regular Rulemaking (Gov. Code §11346)	☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	☐ Emergency Readopt (Gov. Code, §11346.1(h))	☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4)	☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	☐ File & Print	☐ Print Only
☐ Emergency (Gov. Code, §11346.1(b))		☐ Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) April 9 - 24, 2008
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5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
☐ Effective 30th day after filing with Secretary of State	☐ Effective on filing with Secretary of State	☐ §100 Changes Without Regulatory Effect	☒ Effective other (Specify) July 15, 2008

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
☒ Department of Finance (Form STD. 399) (SAM §6660)	☐ Fair Political Practices Commission	☐ State Fire Marshal	
☐ Other (Specify) _____			

7. CONTACT PERSON Sandra Ortega, Manager, Office of Regulations	TELEPHONE NUMBER 916-657-2586	FAX NUMBER (Optional) 916-654-3286	E-MAIL ADDRESS (Optional)
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.
--

SIGNATURE OF AGENCY HEAD OR DESIGNEE <u>[Signature]</u>	DATE 5-16-08
TYPED NAME AND TITLE OF SIGNATORY John A. Wagner, Director	

JUN 30 1998

INSTRUCTIONS FOR PUBLICATION OF NOTICE AND SUBMISSION OF REGULATIONS

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for re adoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B).

CHANGES WITHOUT REGULATORY EFFECT

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

ABBREVIATIONS

Cal. Code Regs. - California Code of Regulations
Gov. Code - Government Code
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

Amend Section 63-300.4 to read:

Post-hearing: Amend Section 63-300.41, .43, and .451 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.4 Interviews (Continued)

- .41 Sections 63-300.41 et seq. (MR) shall become inoperative and Sections 63-300.41 et seq. (QR) shall become operative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's QR/PB Declaration. (Continued)

(QR) The CWD at the time of the initial application interview shall determine which households shall be subject to QR-and-/PB, as specified in Section 63-505.2. The CWD may require those households subject to QR/PB requirements to have a face-to-face interview during the recertification process. For those QR/PB households that are not required to have a face-to-face recertification interview, the CWD shall conduct an interview by telephone, in accordance with Section 63-300.45.

Households subject to QR-and-/PB requirements shall be provided with the following at during the certification and recertification interviews process: (Continued)

.43 Waiving the Face-to-Face Interview (No Option)

The face-to-face interview shall be waived at initial certification and at recertification if requested by for any household ~~which is unable to appoint an authorized representative and in which has no all the~~ household members ~~able to come to the interview because they are 65 60~~ years of age or older, or physically disabled ~~and whose members have no earned income~~. The face-to-face interview shall also be waived if requested by any household which is unable to appoint an authorized representative and lives in a location which is not served by a certification office. For those households that are not required to have a face-to-face interview, the CWD shall conduct an interview by telephone, in accordance with Section 63-300.45. (Continued)

.45 When the Interview is Waived or Not Required

The CWD has the option of conducting a telephone interview or a home visit for those households for whom the face-to-face interview is waived or not required. Home visits shall be used only if the time of the visit is scheduled in advance with the household.

The CWD shall conduct a face-to-face interview at recertification in accordance with Section 63-300.4 when requested by the household or when the county determines it is necessary to verify conditions of eligibility.

~~Waiver of the face-to-face interview~~ When the face-to-face interview is waived or not required, it does not exempt the household from verification requirements, although special procedures may be used to permit the household to provide verification and thus obtain its benefits in a timely manner, such as substituting a collateral contact in cases where documentary verification would normally be provided.

~~Waiver of the face-to-face interview~~ When the face-to-face interview is waived or not required, it shall not affect the length of the household's certification period.

There is no limit to how many times a household may be certified based on telephone interviews. However, the case file must be adequately documented each time the face-to-face interview is waived.

63-601.124

~~.451 The household is certified by an out-of-office interview, as specified in Section 63-300.4. However, the CWD should attempt to obtain the fingerprint images and photo images~~ complete all SFIS requirements not completed at time of certification, when the household member(s) is/are in the office for any reason. The CWD shall not require the household member to make a special trip into the office solely for the purpose of SFIS compliance. However, a household that has not met SFIS requirements during the initial certification period must satisfy the SFIS requirements by the end of the household's initial certification period or prior to being recertified. If the household member does not comply with SFIS requirements, the CWD must take appropriate action as specified in Section 63-505.14.

.46 Scheduling Initial Application Interviews (Continued)

.464 Scheduling Recertification Interviews

- (a) As part of the recertification process, the CWD must conduct a face-to-face interview with a member of the household or its authorized representative at least once every 12 months for households certified for 12 months or less. The requirement for a face-to-face interview once every 12 months may be waived in accordance with Sections 63-300.43 and .44 or not required in accordance with Section 63-300.41(QR).
(Continued)

Authority cited: Sections 10554, 11265.1, .2 and .3, 18901.3, 18904, and 18910, Welfare and Institutions Code.

Reference: Sections 10554, 11023.5, 11265.1, .2, and .3, 11348.5, 18901.3, 18901.10, 18904, 18910, and 18932, Welfare and Institutions Code; 7 Code of Federal Regulations (CFR) 271.2, 273.2(b)(ii), (c)(2)(i) and (ii), (c)(3), (c)(5), (e)(1), (e)(2), (e)(3), (f)(1)(i)(C), (ii)(B)(1), (2), (3), and (C), and (iii)(h)(1)(i)(D), and proposed (f)(1)(xii) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, (f)(3), (f)(3)(ii), (f)(8), (h), (h)(1)(i)(D), and (j)(1); 7 CFR 273.4(a)(2) and (10) and (c)(2); 7 CFR 273.7(i)(4) and (j)(1); 7 CFR 273.12(c) and (c)(3); 7 CFR 273.14(b)(3)(i), (iii) and (b)(4) and (e); 7 CFR 273.21(h)(2)(iv), (i), and (j)(3)(iii)(B); USDA, Food and Nutrition Service (FNS) Office, Western Region, Administrative Notice 84-56, Indexed Policy Memo 84-23; ~~Food and Nutrition Service~~ FNS Quarterly Reporting/Prospective Budgeting waiver dated April 1, 2003; USDA, FNS Waiver #2070014; 7 U.S.C.A. 2020(e)(2); Americans with Disabilities Act (ADA), Public Law (P.L.) 101-336, 1990; U.S.D.A., Food and Consumer Services, Administrative Notice No. 94-22, dated January 7, 1994; Chapter 306, Statutes of 1988, and AB 1371, Chapter 306, Statutes of 1995; Blanco v. Anderson Court Order, United States District Court, Eastern District of California, No. CIV-S-93-859 WBS, JFM, dated January 3, 1995, and Federal Register, Vol. 66, No. 229, dated November 28, 2001.

Amend Section 63-504.6 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY 63-504
(Continued)

.6 Recertification of All Households

.61 General Requirements (Continued)

(d) Any household receiving a notice of action informing them of the expiration of their certification period shall attend any interview scheduled by the CWD on or after the date the application is timely filed in order to retain their right to uninterrupted benefits.

(1) The CWD may schedule the interview prior to the date the application is timely filed provided the household is not denied at that time for failing to ~~appear for~~ participate in the interview.

(2) The CWD shall schedule the interview on or after the date the application was timely filed if the interview has not been previously scheduled, or the household has failed to ~~appear for~~ participate in any interviews scheduled prior to this time and has requested another interview.

(3) If the household does not ~~appear for~~ participate in any interview scheduled in accordance with this section or attempted to reschedule another appointment, the CWD need not initiate any further action.
(Continued)

(g) CWD Action on Timely Applications for Recertification

The CWD shall provide uninterrupted benefits to any household determined eligible after the household timely files an application and ~~attends~~ participates in an interview. The CWD shall provide uninterrupted benefits within the time standards listed below even if, to meet these standards, the CWD must provide an opportunity to participate outside the normal issuance system. (Continued)

(i) CWD Action on Untimely Applications for Recertification

(1) Any household shall lose their right to uninterrupted benefits if they fail:
(Continued)

(B) To ~~appear for~~ participate in an interview. (Continued)

Authority cited: Sections 10553, 10554, 10604, 11265.1, .2, and .3, 11369, 18904, and 18910, Welfare and Institutions Code.

Reference: Sections 10554, 11265.1, .2, and .3, 18901.6, 18904, and 18910, Welfare and Institutions Code; 7 Code of Federal Regulations (CFR) 271.2; proposed 7 CFR 273.2(f)(1)(xii) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, (f)(8)(i); (f) (8)(i)(A) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; (f)(8)(ii), (h), and (h)(1)(i)(D), 7 CFR 273.2(j)(3) and (4); 7 CFR 273.8(b); 7 CFR 273.9(d)(6)(iii)(F), 7 CFR 273.10(d)(4), (f), (g)(1)(i) and (ii); 7 CFR 273.12(a)(1)(i)(A), (a)(1)(i)(B), and (a)(1)(i)(C)(2); proposed 7 CFR 273.12(a)(1)(vi) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, and (c); 7 CFR 273.12(e)(1), (e)(2), and (e)(4); 7 CFR 273.13(a)(2); 7 CFR 273.13(b)(1); 7 CFR 273.14; 7 CFR 273.14(b)(3) and (e); 7 CFR 273.18(e)(6)(ii); 7 CFR 273.21(e)(1), (f)(1)(iii), (f)(1)(iv)(B), (f)(2)(v), (h)(2)(iv), proposed (h)(2)(ix) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, (h)(3)(ii), (i), (j), (j)(1)(vi), (j)(1)(vii)(A) and (r), (j)(2)(iii), (j)(3)(ii), (j)(3)(iii)(B), (j)(3)(iii)(C), and proposed (j)(3)(iii)(E) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; 7 CFR 274.10; Public Law (P.L.) 100-435, Section 351, P.L. 101-624, and P.L. 103-66; Section 1717, [7 U.S.C. 2014(e)]; 7 U.S.C. 2014(d)(7), AND (e)(6)(C)(iii), 2017(c)(2)(B) and 2020(s); U.S.D.A. Food and Consumer Services, Administrative Notices 94-39 and 97-50; P.L. 104-193, Sections 801, 807 and 827 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); Federal Nutrition Service Quarterly Reporting/Prospective Budgeting waiver approval dated April 1, 2003; Federal Administrative Notice 97-99, dated August 12, 1997; United States Department of Agriculture (USDA), Food and Nutrition Service (FNS) Administrative Notice (AN) 03-23, dated May 1, 2003; USDA, FNS Waiver #2070014; and the Farm Security and Rural Investment Act of 2002 (P.L. 107-171).

Post-hearing: Amend Section 63-505.14 to read:

63-505 HOUSEHOLD RESPONSIBILITIES

63-505

.1 Household Cooperation (Continued)

.14 Refusal to Cooperate with the Statewide Fingerprint Imaging System (SFIS) Requirement

Eligible household members who are not exempt per Sections 63-601.12 through ~~.125~~ .123 and Section 63-601.14 shall be required to fulfill SFIS requirements prior to the issuance of food stamp benefits to that household, even if the household is eligible for benefits. The SFIS requirements, exemptions, and postponements are explained in Sections 63-601.12 through ~~.125~~ .123, Section 63-601.13, and Section 63-601.14.

Authority cited: Sections 10553, 10554, 10604, 11265.1, .2 and .3, 11369, 18904, and 18910, Welfare and Institutions Code.

Reference: Sections 10554, 10830, 11265.1, .2, and .3, 18904, and 18910, Welfare and Institutions Code; 7 CFR 272.4(f); 7 CFR 273.2(j)(3) and (4); 7 CFR 273.10(d)(4); 7 CFR 273.11(a)(2)(iii); 7 CFR 273.12, (a)(1)(i), (a)(1)(i)(A), (a)(1)(i)(B), (a)(1)(i)(C)(2), and proposed .12(a)(1)(vi) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; 7 CFR 273.2(d); proposed 7 CFR 273.2(f)(1)(xii) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; 7 CFR 273.21(b), (b)(4), (f)(2)(v), (h)(2)(iv), proposed (h)(2)(ix) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, (h)(3), and (i); 7 CFR 273.12(a)(1)(vii); 7 CFR 273.24(a)(1)(i) and (b)(7); P.L. 100-435, Section 351; P.L. 101-624, Section 1717 [7 U.S.C. 2014(e)] and Section 1723 [7 U.S.C. 2015(c)(1)(A)]; P.L. 102-237, Section 908 [7 U.S.C. 2016(h)(1)]; 7 U.S.C. 2014(d)(6) and (e)(6)(C)(iii); Food and Consumer Services Administrative Notice 96-13, dated December 7, 1995; United States Department of Agriculture, Food and Nutrition Service Administrative Notice 03-23, dated May 1, 2003; Letter from Food and Consumer Services to Fred Schack, dated March 25, 1996; Food Stamp Act of 1977; Federal Nutrition Service Quarterly Reporting/Prospective Budgeting waiver approval dated April 1, 2003; and the Farm Security and Rural Investment Act of 2002 (P.L. 107-171).

Amend Section 63-601.12 to read:

63-601 COUNTY WELFARE DEPARTMENT RESPONSIBILITIES (Continued) 63-601

.1 Basic Issuance Requirements (Continued)

- .12 The CWD shall be required to obtain fingerprint images and a photo image of each eligible household member using SFIS equipment, as specified in Section 63-505.14, unless that member meets one or more of the following exemptions. (Continued)

.124 (Renumbered to 63-300.451) (Continued)

Authority cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 272.4(f); 7 CFR 274.1; 7 CFR 274.2; 7 CFR 274.7; Food and Consumer Services Administrative Notice 96-13, dated December 7, 1995; and Sections 10554 and 18904, Welfare and Institutions Code.

EMERGENCY

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATIONS SUBMISSION

FILE
(See instructions on reverse)

ORIGINAL
For use by Secretary of State only
PRINT

STD. 400 (REV. 01-08)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2008-0619-01 EEP
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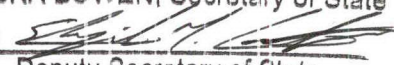
FILED

For use by Office of Administrative Law (OAL) only

In the office of the Secretary of State
of the State of California

2008 JUN 19 AM 11:05
OFFICE OF
ADMINISTRATIVE LAW

JUN 30 2008

At 3:14 O'Clock P. M.
DEBRA BOWEN, Secretary of State
By 
Deputy Secretary of State

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

California Department of Social Services

AGENCY FILE NUMBER (if any)

ORD#0308-02

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Emergency Regulations-Minimum Sanction Periods & County Plan Addendum	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 42-721, 42-780, 44-303, 44-307, 44-318, 82-812
	REPEAL
TITLE(S) MPP	

3. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code §11346)	☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	☐ Emergency Readopt (Gov. Code, §11346.1(h))	☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	☒ File & Print	☐ Print Only
☒ Emergency (Gov. Code, §11346.1(b))	☐ Other (Specify) _____		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

N/A

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

☐ Effective 30th day after filing with Secretary of State	☐ Effective on filing with Secretary of State	☐ §100 Changes Without Regulatory Effect	☒ Effective other (Specify) July 1, 2008
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) (SAM §6660)	☐ Fair Political Practices Commission	☐ State Fire Marshal
☐ Other (Specify) _____		

7. CONTACT PERSON

Sandra Ortega, Manager

TELEPHONE NUMBER

(916) 657-2586

FAX NUMBER (Optional)

(916) 654-3286

E-MAIL ADDRESS (Optional)

sortega@dss.ca.gov

8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE



DATE

6/16/08

TYPED NAME AND TITLE OF SIGNATORY

John A. Wagner, Director

VVVV VVVV

ALL FILINGS

NOTICES

REGULATIONS

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

EMERGENCY REGULATIONS

NOTICE FOLLOWING EMERGENCY ACTION

CERTIFICATE OF COMPLIANCE

EMERGENCY REGULATIONS - READOPTION

CHANGES WITHOUT REGULATORY EFFECT

ABBREVIATIONS

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

Amend Section 42-721 to read:

42-721 NONCOMPLIANCE WITH PROGRAM REQUIREMENTS

42-721

.2 Compliance Process (Continued)

.23 (Continued)

.232 The written notice of action shall contain the following additional information:
(Continued)

- (j) The steps the individual must take to have aid restored ~~at the end of the sanction period.~~ (Continued)

.4 Sanctions

.41 (Continued)

~~.412 The period of time a sanctioned individual is considered a reunification parent under Section 82-812.68 shall count toward meeting the sanction periods specified in Section 42-721.43.~~

~~.413~~ .412 (Continued)

.43 Financial sanctions for failing or refusing to comply with program requirements without good cause shall result in a reduction in the family's grant by removing the noncomplying family member from the assistance unit ~~for a period of time that increases in the following manner: until the noncomplying individual performs the activity(ies) he or she previously refused to perform; or if the activity that the noncomplying individual originally failed to perform is no longer available or appropriate, the county must specify another appropriate activity for the individual to perform.~~

~~.431 The first instance of noncompliance without good cause shall result in a financial sanction until the noncomplying participant performs the activity(ies) he or she previously refused to perform.~~

~~.432 The second instance of noncompliance without good cause shall result in a financial sanction for three months or until the noncomplying participant performs the activity(ies) he or she previously refused to perform, whichever is longer.~~

~~.433 The third and each subsequent instance of noncompliance without good cause shall result in a financial sanction for six months or until the noncomplying participant performs the activity(ies) he or she previously refused to perform, whichever is longer. (Continued)~~

.45 In a two-parent assistance unit whose basis for deprivation is unemployment, the sanctioned parent shall be removed from the assistance unit. (Continued)

.454 A spouse or second parent who chooses to participate to avoid the noncomplying parent's sanction, and subsequently ceases participation without good cause and fails or refuses to agree to or fulfill the terms of a compliance plan without good cause, shall be removed from the assistance unit ~~for a period of time specified in~~ accordance with Section 42-721.43. (Continued)

.48 The CWD shall restore aid:

.481 ~~Upon expiration of the sanction period~~ On the first day of the month following the date that the individual contacted the county to indicate his or her desire to end the sanction, once the activities in accordance with Section 42-721.43 have been successfully completed, if the individual ~~applies for aid,~~ is determined to be in compliance with program requirements, and is otherwise eligible; or (Continued)

.483 (QR) (Continued)

HANDBOOK BEGINS HERE

(a) Example: An individual who was sanctioned for failing to attend orientation contacts the CWD on July 14 and indicates he wishes to end his sanction. The individual signs his curing plan on July 17, attends orientation on July 23 as required by his curing plan, and cures his sanction. On August 1, if the individual is otherwise eligible, his cash aid is restored.

(b) Example: An individual contacts the CWD on July 14 and indicates she wishes to end her sanction. The individual signs her curing plan on July 17, which specifies that she must participate in two weeks of job search/job club beginning on July 23. She successfully completes job search/job club on August 5, and ends her sanction. If the individual is otherwise eligible, her cash aid is restored back to August 1.

HANDBOOK ENDS HERE

.49 The CWD shall grant aid:

.491 On the first day of the month following the date that the individual contacted the county to indicate his or her desire to end the sanction, once the activities in accordance with Section 42-721.43 have been successfully completed, if the individual applies for aid, is determined to be in compliance with program requirements, and is otherwise eligible.

HANDBOOK BEGINS HERE

- (a) Example: An individual who was sanctioned and left aid with his family after failing to participate in vocational education contacts the CWD on July 1 to reapply for aid. His family is determined eligible for aid on July 5 and aid is granted to the family as of July 5; before aid can be granted for the sanctioned individual he must cure his sanction. The individual signs his curing plan on July 5, participates in a vocational education program for 30 days, and successfully cures his sanction on August 3. If the individual is otherwise eligible, his cash aid is granted back to August 1 as a county-initiated mid-quarter change pursuant to Section 44-316.331(c)(QR).

HANDBOOK ENDS HERE

.5 State Hearing and Formal Grievance (Continued)

Authority cited: Sections 10553, 10554, and 10604 Welfare and Institutions Code.

Reference: Sections 11203, 11265.2, 11320, 11320.31, 11322.9, 11324.8(d), 11327.4, 11327.5(a) through (e), 11327.6, 11327.8, 11327.9, 11328.2, 11333.7, 11454, and 16501.1(d), (e), (f), and (g), Welfare and Institutions Code.

Amend Section 42-780 to read:

42-780 COUNTY PLANS FOR CALWORKS

42-780

.1 (Continued)

.6 A county shall submit an addendum to the county plan once every three years.

Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10530, 10531, 10532(b)(1), 10534, 10542, 10553.2(d), 11321.6, 11322.7, 11322.9, 11323.2, 11325.7, 11325.8, 11327.8, 11329.4 and 13280, Welfare and Institutions Code; and 42 U.S.C. 602(a)(5) and 612.

Amend Section 44-303 to read:

44-303 AID PAYMENTS-DEFINED

44-303

Aid payments are: (Continued)

.3 Vendor Payments, i.e., payments made directly to a person or agency supplying goods or services to the recipient or family. Vendor payments are applicable: (Continued)

.34 In CalWORKs cases in which a parent or caretaker relative ~~is~~ has been subject to sanction for ~~a period of time known in advance to be~~ at least three consecutive months (see Section 44-307.12). A county shall establish when to begin to issue vouchers or vendor payments after this three-month period in sanction status. This timeframe shall be included in a county's written policies and procedures.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11251.3, 11327.5(d), 11453.2 and 17012.5 Welfare and Institutions Code; Family Support Act of 1988, Public Law (PL) 100-485, October 13, 1988 and California Department of Health Services Manual Letter 77-1.

Amend Section 44-307 to read:

44-307 VOUCHER/VENDOR PAYMENTS

44-307

.1 Voucher/Vendor Payments (Continued)

.12 Sanction

Any ~~time~~ a parent or caretaker relative is has been subject to sanction for ~~a period of time known in advance to be~~ at least three consecutive months. A county shall establish when to begin to issue vouchers or vendor payments after this three-month period in sanction status. This timeframe shall be included in a county's written policies and procedures. The vouchers or vendor payments shall continue until the parent or caretaker relative is no longer subject to sanction.
(Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11251.3, 11320.15, 11327.5(d), 11450.13, 11453.2 and 17012.5 Welfare and Institutions Code; and Section 1942, Civil Code.

Amend Section 44-318 to read:

44-318 BEGINNING DATE OF AID (BDA) FOR PERSONS
BEING ADDED TO THE AU

44-318

.1 Beginning Date of Aid

The BDA shall be: (Continued)

.13 Sanction/
Noncooperating Persons

(Continued)

(QR)

The first of the month following the date the person meets the requirement which caused that person to be excluded from the AU, after all conditions of eligibility have been met (see Section 44-316.331 (c) (QR)), ~~and the minimum sanction periods in accordance with Section 42-721.43 have passed.~~ (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11056, 11265.1, 11265.2, ~~and~~ 11265.3, and 11327.5(d) Welfare and Institutions Code; 45 CFR 233.10 and .20 (a)(13); Federal Register, Vol. 57, No. 131; and SSA-AT-86-01.

Amend Section 82-812 to read:

82-812 TEMPORARY ABSENCE (Continued)

82-812

.6 Exceptions to One Full Calendar
Month Time Limitation (Continued)

.68 Children Receiving Out-of-Home Care
(Continued)

.687 (Continued)

(e) Pursuant to Section 42-711.512 and Section 42-
721.413, reunification parents who are in
~~subject to a WTW sanction, including a second~~
~~or third instance sanction,~~ are not precluded
from receiving CalWORKs reunification
services. ~~Participation in a family reunification~~
~~plan will also count toward any required~~
~~sanction period.~~

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11203, 11265.1, 11269, 11323.4, 11327.5(d), and 11454 Welfare and
Institutions Code; and 42 USC 4608 (a)(10).

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on
reverse)

STD. 400 (REV. 01-08)

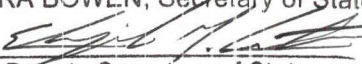
OAL FILE NUMBERS	NOTICE FILE NUMBER Z- 08-0115-05	REGULATORY ACTION NUMBER 2008-0530-025	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

In the office of the Secretary of State
of the State of California

FILED

JUL 09 2008

At 1:51 O'Clock P. M.
DEBRA BOWEN, Secretary of State
By 
Deputy Secretary of State

2008 MAY 30 AM 11:13
OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

California Department of Social Services

AGENCY FILE NUMBER (if any)

ORD#0507-02

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/ Withdrawn		NOTICE REGISTER NUMBER 08-42	PUBLICATION DATE 1252008

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Family Connections for Foster Youth, Foster Care Provider Training	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
--	--

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND See Attached
	REPEAL
TITLE(S) Title22/MPP	

3. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code §11346)	☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	☐ Emergency Readopt (Gov. Code, §11346.1(h))	☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	☐ File & Print	☐ Print Only
☐ Emergency (Gov. Code, §11346.1(b))		☐ Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
N/A

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

☒ Effective 30th day after filing with Secretary of State	☐ Effective on filing with Secretary of State	☐ §100 Changes Without Regulatory Effect	☐ Effective other (Specify) _____
---	--	---	--

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) (SAM §6660)	☐ Fair Political Practices Commission	☐ State Fire Marshal
☐ Other (Specify) _____		

7. CONTACT PERSON Sandra Ortega, Manager	TELEPHONE NUMBER (916) 657-2586	FAX NUMBER (Optional) (916) 654-3286	E-MAIL ADDRESS (Optional) sortega@dss.ca.gov
---	------------------------------------	---	---

8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

John A. Wagner, Director

5/27/08

INSTRUCTIONS FOR PUBLICATION OF NOTICE AND SUBMISSION OF REGULATIONS

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B).

CHANGES WITHOUT REGULATORY EFFECT

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

ABBREVIATIONS

Cal. Code Regs. - California Code of Regulations
Gov. Code - Government Code
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

Amend

Section Codes:

80017, 83017, 83064, 83075, 84065, 84068.2, 84090, 84165, 84265, 86065, 86068.2,
86517, 88001, 88022, 88031, 88065.3, 88068.2, 88069.7, 89317, 89378, 89405

Adopt

88054, 89318

General Licensing Requirements

Amend Section 80017 to read:

80017 APPLICANT QUALIFICATIONS 80017
NONDISCRIMINATION OF APPLICANTS

- (a) Any adult shall be permitted to apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, disability, marital status, actual or perceived sexual orientation, gender identity, HIV status, or ancestry.
(Continued)

HANDBOOK BEGINS HERE

(eb) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Section 51, Civil Code; Sections 1520 and 1528, Health and Safety Code; and Section 51, Civil Code Section 16013, Welfare and Institutions Code.

Small Family Homes

Amend Section 83017 to read:

83017 APPLICANT QUALIFICATIONS

83017

~~(a) — In addition to Section 80017, the following shall apply.~~

~~(ba)~~ (Continued)

HANDBOOK BEGINS HERE

~~(eb)~~ (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Section 1501, 1520, and 1531, Health and Safety Code.

Amend Section 83064 to read:

83064 LICENSEE DUTIES AND RESPONSIBILITIES

83064

~~(a) In addition to Section 80064 the following shall apply.~~

~~(ba)~~ (Continued)

(1) through (9) (Continued)

(10) Unless restricted by the case plan adopted by the court or other court order, the licensee shall permit and facilitate connections between the child and the child's family and non-relative extended family members. Nothing in this section shall be interpreted to require a foster care provider to take any action that would impair the health and safety of children in out-of-home placement.

~~(eb)~~ (Continued)

~~(dc)~~ (Continued)

~~(ed)~~ (Continued)

(e) The licensee shall ensure that caregivers meet initial and ongoing training requirements regarding the child's right to nondiscriminatory care as outlined below:

(1) Fair and equal access to all available services, placement, care, treatment, and benefits.

(2) To not be subject to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Section 51, Civil Code; Sections 1501, 1529.1, 1529.2, 1530.91, and 1531, and 1562, Health and Safety Code; Sections 366.1, 366.21, and 16001.9, Welfare and Institutions Code.

Amend Section 83075 to read:

83075 HEALTH RELATED SERVICES (Continued)

83075

- (f) Any time a child is in the home, At least one of the persons providing regular and routine direct care and supervision to a the child shall have received current training in ~~f~~First ~~a~~Aid and Cardio Pulmonary Resuscitation (CPR). Training shall be obtained from an agency offering such training including, but not limited to, the American Red Cross, and shall be appropriate to the child's age and needs.
- (1) The caregiver shall complete First Aid and CPR training in addition to training which increases understanding of, and skill in, caring for children.
- (12) The licensee shall maintain copies of ~~unexpired current~~ ~~f~~First ~~a~~Aid and CPR certificates ~~documenting the training required in Section 83075(f).~~

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1507, 1530.6, and 1531, Health and Safety Code; ~~and Business and Professions Code Section 2727(a).~~

Group Homes

Amend Section 84065 to read:

84065 PERSONNEL REQUIREMENTS (Continued)

84065

(i) (Continued)

- (3) Training shall include, at a minimum, all of the following topics ~~listed in (A) through (R) below~~. The licensee shall determine how much time is spent on each topic, and shall ensure that child care staff have appropriate skills necessary to supervise the children in care. (Continued)

(S) The child's right to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. (Continued)

(j) (Continued)

- (3) Training may include but is not limited to, the following topics: (Continued)

(O) Topics listed in Sections 84065(i)(3)(A) through (RS). (Continued)

Authority Cited: Section 1522.41(j) and 1530, Health and Safety Code.

Reference: Section 51, Civil Code; Sections 1501, 1522.4, 1522.41, 1531, and 1562, Health and Safety Code; Section 16001.9, Welfare and Institutions Code.

Amend Section 84068.2 to read:

84068.2 NEEDS AND SERVICES PLAN (Continued)

84068.2

- (e) Unless restricted by the case plan adopted by the court or other court order, the licensee shall permit and facilitate connections between the child and the child's family and non-relative extended family members. Nothing in this section shall be interpreted to require a foster care provider to take any action that would impair the health and safety of children in out-of-home placement.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code; Sections 366.1, 366.21, and 16001.9 Welfare and Institutions Code.

Amend Section 84090 to read:

84090 INITIAL CERTIFICATION TRAINING PROGRAM
 APPROVAL REQUIREMENTS (Continued)

84090

(h) The initial Certification Training Program shall consist of the following components:

(1) A minimum of forty (40) classroom hours on a uniform Core of Knowledge with the following basic curriculum: (Continued)

(H) Six (6) hours of instruction on admission, retention, and assessment procedures, and nondiscrimination policies, including the child's right to fair and equal access to all available services, placement, care, treatment and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.(Continued)

Authority Cited: Sections 1522.41(j) and 1530, Health and Safety Code.

Reference: Section 1 of Assembly Bill (AB) 458 (Chapter 331, Statutes of 2003); Sections 1501, 1522.41(e) and (h), and 1531, Health and Safety Code; and Section 16001.9, Welfare and Institutions Code.

Group Homes, Community Treatment Facilities

Amend Section 84165 to read:

84165 PERSONNEL REQUIREMENTS (Continued)

84165

(f) (Continued)

- (2) The on-the-job training and development program shall include training in the following areas: (Continued)
- (C) Children's personal rights, including the child's right to fair and equal access to all available services, placement, care, treatment and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.
 - (D) ~~d~~Due process rights, and procedures for accessing ~~these~~ due process and personal rights.
 - (E) ~~and s~~Staff responsibilities.
 - (~~D~~F) (Continued)

Authority Cited: Section 1530 and 1530.9, Health and Safety Code.

Reference: Section 51, Civil Code; Sections 1501, 1522.4, 1531, and 1562, Health and Safety Code; Section 16001.9, Welfare and Institutions Code.

Group Homes, Care for Children Under the Age of Six Years

Amend Section 84265 to read:

84265 PERSONNEL REQUIREMENTS (Continued)

84265

(i) Training for all staff shall address the child's right to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(~~j~~k) (Continued)

(~~k~~l) (Continued)

(~~l~~m) (Continued)

Authority Cited: Section 1530 ~~and 1531~~, Health and Safety Code.

Reference: Section 51, Civil Code; Sections 1530.8, 1531, 1562, and 1596.866, Health and Safety Code; ~~and Sections 11467.1 and 16001.9~~, Welfare and Institutions Code.

Transitional Housing Placement Program

Amend Section 86065 to read:

86065 PERSONNEL REQUIREMENTS

86065

(a) (Continued)

- (3) Training for all personnel shall address the child's right to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(34) (Continued)

(45) (Continued)

(56) (Continued)

Authority Cited: Sections 1530 and 1559.110, Health and Safety Code.

Reference: Section 51, Civil Code; Sections 1501, 1506, 1531, and 1559.115, Health and Safety Code; and Sections 16001.9, and 16522.1, Welfare and Institutions Code.

Amend Section 86068.2 to read:

86068.2 NEEDS AND SERVICES AND TRANSITIONAL
 INDEPENDENT LIVING PLAN (TILP) (Continued)

86068.2

- (e) Unless restricted by the case plan adopted by the court or other court order, connections between the participant and the participant's family and non-relative extended family members shall be permitted. Nothing in this section shall be interpreted to require a foster care provider to take any action that would impair the health and safety of children in out-of-home placement.

Authority Cited: Sections 1530 and 1559.110, Health and Safety Code.

Reference: Sections 1501, 1507, 1531, and 1559.110, Health and Safety Code;
 Sections 366.1, 366.21, 16001.9, and 16522.1, Welfare and Institutions
 Code; and Title 42 USC Section 675 and 677, ~~of the Social Security~~
 ~~Act~~ Title 42 United States Code.

Crisis Nurseries

Amend Section 86517 to read:

86517 NONDISCRIMINATION OF APPLICANTS

86517

Any adult shall be permitted to apply on the applicant's behalf for a license regardless of age, sex, race, religion, color, political affiliation, national origin, disability, marital status, actual or perceived sexual orientation, gender identity, HIV status, or ancestry.

Authority Cited: Section 1530 Health and Safety Code.

Reference: Section 51, Civil Code; Sections 1516, 1520, and 1530, Health and Safety Code; Section 16013, Welfare and Institutions Code.

Foster Family Agencies

Amend Section 88001 to read:

88001 DEFINITIONS (Continued)

88001

~~(a-)~~ through ~~(o-)~~ (Continued)

~~(p-)~~ (1) “Placement Hold” means a foster family agency stops placing children into a certified family home as a result of any of the following:

 (A) Pending or substantiated violations of licensing regulations.

 (B) Failure to meet the standards of the foster family agency.

~~(12)~~ “Private Foster Family Agency” (Continued)

~~(23)~~ “Public Foster Family Agency” (Continued)

~~(q-)~~ through ~~(z-)~~ (Continued)

Authority Cited: Section 1530, Health and Safety Code; Section 17730, Welfare and Institutions Code ~~and Section 1530, Health and Safety Code.~~

Reference: Sections 1502, 1506, 1506.7, 1530.5, and 1538, Health and Safety Code; Sections 17710(a), (g) and (i), 17731(c), and 17732(b), Welfare and Institutions Code ~~and Sections 1502, 1506, 1530, 1530.5 and 1538, Health and Safety Code.~~

Amend Section 88022 to read:

88022 PLAN OF OPERATION

88022

(a) In addition to Section 80022, excluding Sections 80022(b)(7) and (8), the plan of operation shall contain the following: (Continued)

(5) A written description of the foster family agency training plan including:
(Continued)

(B) Initial and ongoing training of certified parent(s); shall including include training in child abuse identification, prevention, and treatment. The training plan shall also include training required by Health and Safety Code Section 1529.2.

HANDBOOK BEGINS HERE

1. Health and Safety Code Section 1529.2 provides:

"(a) In addition to the foster parent training provided by community colleges, foster family agencies shall provide a program of training for their certified foster families.

"(b) (1) Every licensed foster parent shall complete a minimum of 12 hours of foster parent training, as prescribed in paragraph (3), before the placement of any foster children with the foster parent. In addition, a foster parent shall complete a minimum of twelve hours of foster parent training annually as prescribed in paragraph (4). No child shall be placed in a foster family home unless these requirements are met by the persons in the home who are serving as the foster parents.

"(2) (A) Upon the request of the foster parent for a hardship waiver from the postplacement training requirement or a request for an extension of the deadline, the county may, at its option, on a case-by-case basis, waive the postplacement training requirement or extend any established deadline for a period not to exceed one year, if the postplacement training requirement presents a severe and unavoidable obstacle to continuing as a foster parent. Obstacles for which a county may grant a hardship waiver or extension are:

(i) Lack of access to training due to the cost or travel required.

(ii) Family emergency.

(B) Before a waiver or extension may be granted, the foster parent should explore the opportunity of receiving training by video or written materials.

"(3) The initial preplacement training shall include, but not be limited to, training courses that cover all of the following:

(A) An overview of the child protective system.

(B) The effects of child abuse and neglect on child development.

(C) Positive discipline and the importance of self-esteem.

(D) Health issues in foster care.

(E) Accessing education and health services available to foster children.

(F) The right of a foster child to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

"(4) The postplacement annual training shall include, but not be limited to, training courses that cover all of the following:

(A) Age-appropriate child development.

(B) Health issues in foster care.

(C) Positive discipline and the importance of self-esteem.

- (D) Emancipation and independent living skills if a foster parent is caring for youth.
- (E) The right of a foster child to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status."
- (F) The dependency court process and court participation by the foster children and foster parents.
- (G) Permanency options for children in foster care and services and supports available to foster parents providing permanent placements for dependent children.

HANDBOOK ENDS HERE

(C) (Continued)

- (D) Initial and ongoing training of foster family agency staff in the child's right to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(DE)(Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Section 51, Civil Code; Sections 1506, 1506.7, 1520, and 1529.2, Health and Safety Code; Section 11174.1, Penal Code; and Sections 1506 and 1520, Health and Safety Code Section 16001.9, Welfare and Institutions Code.

Amend Section 88031 to read:

88031 NOTIFICATION APPLICATION FOR CERTIFICATION

88031

(a) The foster family agency application for certification shall require an applicant to provide the following:

- (1) Whether the applicant has been denied certification by a foster family agency and, if so, by which agency.
- (2) Whether the applicant has been put on a placement hold by a county and, if so, by which county.
- (3) Information required by Health and Safety Code Section 1506.7(a).

HANDBOOK BEGINS HERE

(A) Health and Safety Code Section 1506.7(a) provides:

“A foster family agency shall require the owner or operator of a family home applying for certification to sign an application that shall contain, but not be limited to, the following information:

- (1) Whether the applicant has been certified, and by which foster family agency.
- (2) Whether the applicant has been decertified, and by which foster family agency.
- (3) Whether a placement hold has been placed on the applicant by a foster family agency, and by which foster family agency.
- (4) Whether the applicant has been a foster home licensed by a county or the state and, if so, by which county or state, or whether the applicant has been approved for relative placement by a county and, if so, by which county.”

HANDBOOK ENDS HERE

(4) A declaration required by Health and Safety Code Section 1506.7(b)(2).

HANDBOOK BEGINS HERE

(A) Health and Safety Code Section 1506.7(b)(2) provides in part:

“The application form signed by the owner or operator of the family home applying for certification shall be signed with a declaration by the applicant that the information submitted is true, correct, and contains no material omissions of fact to the best knowledge and belief of the applicant. Any person who declares as true any material matter pursuant to this section that he or she knows to be false is guilty of a misdemeanor....”

HANDBOOK ENDS HERE

- (b) In its application, the foster family agency shall provide applicants with notice required by Health and Safety Code Section 1506.7(b)(1) and 1506.7(b)(2).

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1506.7(b)(1) provides:

“The application form signed by the owner or operator of the family home applying for certification shall contain notice to the applicant for certification that the foster family agency is required to check references of all foster family agencies that have previously certified the applicant and of all state or county licensing offices that have licensed the applicant as a foster parent, and that the signing of the application constitutes the authorization of the applicant for the foster family agency to conduct its check of references.”

- (2) Health and Safety Code Section 1506.7(b)(2) provides in part:

“...The application shall include a statement that submitting false information is a violation of law punishable by incarceration, a fine, or both incarceration and a fine.”

HANDBOOK ENDS HERE

- (c) Before certifying an applicant, the foster family agency shall make contacts and conduct a reference check as required by Health and Safety Code Section 1506.8, 1506.9(b), and 1536(c).

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1506.8 provides:

“Before certifying a family home, a foster family agency shall contact any foster family agencies by whom an applicant has previously been certified and any state or county licensing offices that have licensed the applicant as a foster parent, and shall conduct a reference check as to the applicant.”

- (2) Health and Safety Code Section 1506.9(b) provides:

"Neither the department, a foster family agency, or a county shall incur civil liability for providing a county or a foster family agency with information if the communication is for the purpose of aiding in the evaluation of an application for certification of a family home by a foster family agency or for licensure as a foster home or approval of a relative placement by a county or by the department."

- (3) Health and Safety Code Section 1536(c) provides in part:

"...a foster family agency may request information from, or divulge information to, the department, a county, or a foster family agency, regarding a prospective certified parent, foster parent, or relative caregiver for the purpose of, and as necessary to, conduct a reference check to determine whether it is safe and appropriate to license, certify, or approve an applicant to be a certified parent, foster parent, or relative caregiver."

HANDBOOK ENDS HERE

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections ~~1506 and 1530~~, 1506.7, 1506.8, 1506.9, and 1536, Health and Safety Code.

Adopt Section 88054 in Article 7 to read:

88054 CIVIL PENALTIES

88054

(a) In addition to Section 80054, the following penalties shall apply:

- (1) The department shall assess an immediate civil penalty of \$50.00 when the agency fails to provide the department with a log of certified and decertified homes for any month by the tenth day of the following month. After each citation, the department shall assess a penalty of \$50.00 per day until the date the agency provides the department with the log.
- (2) The department shall assess an immediate civil penalty of \$50.00 when the agency fails to notify the department within one business day that it has decertified a family home for any reason specified in Section 88061(h)(1). After each citation, the department shall assess a penalty of \$50.00 per day until the date the agency notifies the department about the decertification.
- (3) If the agency is cited for repeating the same violation within 12 months, the department shall additionally assess immediate civil penalties pursuant to Section 80054(d) or (e), in accordance with Health and Safety Code Sections 1548(c) and (d).

HANDBOOK BEGINS HERE

(A) Health and Safety Code Section 1548(c) provides in part:

“... any facility that is cited for repeating the same violation of this chapter within 12 months of the first violation is subject to an immediate civil penalty of one hundred fifty dollars (\$150) and fifty dollars (\$50) for each day the violation continues until the deficiency is corrected.”

(B) Health and Safety Code Section 1548(d) provides:

“Any facility that is assessed a civil penalty pursuant to subdivision (c) which repeats the same violation of this chapter within 12 months of the violation subject to subdivision (c) is subject to an immediate civil penalty of one hundred fifty dollars (\$150) for each day the violation continues until the deficiency is corrected.”

HANDBOOK ENDS HERE

Authority Cited: Sections 1530 and 1548(e), Health and Safety Code.

Reference: Sections 1536 and 1548, Health and Safety Code. ~

Amend Section 88065.3 to read:

88065.3 SOCIAL WORK PERSONNEL (Continued)

88065.3

(g) Social work personnel shall be responsible for the following: (Continued)

- (5) Development and updating of the child's needs and services plan, including identifying individuals who are important to the child as required by Welfare and Institutions Code Section 366.1(g).

HANDBOOK BEGINS HERE

(A) Welfare and Institutions Code Section 366.1(g) provides:

"Whether a child who is 10 years of age or older and who has been in an out-of-home placement for six months or longer has relationships with individuals other than the child's siblings that are important to the child, consistent with the child's best interests, and actions taken to maintain those relationships. The social worker shall ask every child who is 10 years of age or older and who has been in an out-of-home placement for six months or longer to identify any individuals other than the child's siblings who are important to the child, consistent with the child's best interest. The social worker may ask any other child to provide that information, as appropriate."

HANDBOOK ENDS HERE

(60) (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1506 and 1530, Health and Safety Code; Sections 366.1 and 366.21, Welfare and Institutions Code.

Amend Section 88068.2 to read:

88068.2 NEEDS AND SERVICES PLAN

88068.2

- (a) The needs and services plan shall identify the child's needs in the following areas:
(Continued)
- (e) Unless restricted by the case plan adopted by the court or other court order, the foster family agency, certified parent, and foster family home licensee shall permit and facilitate connections between the child and the child's family and non-relative extended family members. Nothing in this section shall be interpreted to require a foster care provider to take any action that would impair the health and safety of children in out-of-home placement.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1530, and 1531, Health and Safety Code; Sections 366.1 and 366.21, and 16001.9 Welfare and Institutions Code.

Amend Section 88069.7 to read:

88069.7 CONTENT OF CERTIFIED FAMILY HOME OR 88069.7
LICENSED FOSTER FAMILY HOME CASE RECORD (Continued)

- (b) Each certified family home or licensed foster family home case record shall include the following information on each home:
- (1) A ~~face sheet or~~ copy of the completed application form that includes information required by Section 88031, Application for Certification.
 - (2) A ~~type~~ written record of the home study. (Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1506.7, 1522, 1522.1, and 1531, Health and Safety Code.

Foster Family Homes

Amend Section 89317 to read:

89317 APPLICANT QUALIFICATIONS- 89317
NONDISCRIMINATION OF APPLICANTS

- (a) Any adult shall be permitted to apply for a license or approval regardless of age, sex, race, religion, color, political affiliation, national origin, disability, marital status, actual or perceived sexual orientation, gender identity, HIV status, or ancestry.
- (b) ~~An applicant shall have the following qualifications:~~
- (1) ~~Ability to provide care and supervision appropriate to the type of children to be served including ability to communicate with the children.~~
 - (2) ~~Knowledge of and ability to comply with the applicable laws and regulations.~~
 - (3) ~~Ability to maintain, or supervise the maintenance of, financial and other records.~~
 - (4) ~~Ability to direct the work of others when applicable.~~
- (c) ~~An applicant for a foster family home license shall complete an orientation provided by the licensing/approval agency.~~

Authority Cited: Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001); Sections 1530 and 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Section 51, Civil Code; Sections 1501, 1501.1, 1507, 1507.2, 1507.5, 1520, 1525.3, 1526.5, 1529.1, 1529.2, 1529.3, 1530.91, 1531, and 1562, Health and Safety Code; Section 16013, Welfare and Institutions Code and Section 51, Civil Code.

Adopt Section 89318 to read:

89318 APPLICANT QUALIFICATIONS

89318

(a) An applicant shall have the following qualifications:

- (1) Ability to provide care and supervision appropriate to the type of children to be served including ability to communicate with the children.
- (2) Knowledge of and ability to comply with the applicable laws and regulations.
- (3) Ability to maintain, or supervise the maintenance of, financial and other records.
- (4) Ability to direct the work of others when applicable.

(b) An applicant for a foster family home license shall complete an orientation provided by the licensing/approval agency.

Authority Cited: Sections 1530, and 1530.5, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1501.1, 1507, 1507.2, 1507.5, 1520, 1525.3, 1526.5, 1529.1, 1530.91, and 1562, Health and Safety Code; and Section 51, Civil Code.

Amend Section 89378 to read:

89378 RESPONSIBILITY FOR PROVIDING CARE AND
SUPERVISION (Continued)

89378

- (d) Unless restricted by the case plan adopted by the court or other court order, the caregiver shall permit and facilitate connections between the foster child and the foster child's family and non-relative extended family members. Nothing in this section shall be interpreted to require a foster care provider to take any action that would impair the health and safety of children in out-of-home placement.

Authority Cited: Sections 1530, and 1530.5, ~~and 1531~~, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes 2001).

Reference: ~~Section 11465, Welfare and Institutions Code; and Sections 1501, 1520, 1530.6, 1531, and 1559.110, Health and Safety Code; and 42 USC Section 677 of the Social Security Act. Section 677, Title 42 United States Code; Sections 366.1, 366.21, and 11465, 16001.9 Welfare and Institutions Code.~~

Amend Section 89405 to read:

89405 TRAINING REQUIREMENTS (Continued)

89405

- (b) The caregiver is required to complete ~~a minimum of 12 hours of training prior to placement of a child in the home and a minimum of 8 hours of annual training as required~~ specified in Health and Safety Code Section 1529.2(b). In addition, the caregiver shall complete ~~First a~~ Aid and CPR training as required in Section 89405(a).

- (1) Courses, seminars, conferences or training topics that will be accepted by the licensing agency to fulfill the training requirements in Health and Safety Code Section 1529.2(b)(3) and (4) include but are not limited to:

- (A) Child development
- (B) Recognizing and/or dealing with learning disabilities
- (C) Infant care and stimulation
- (D) Parenting skills
- (E) Complexities, demands and special needs of children in placement
- (F) Building self-esteem, for the caregiver or the children
- (G) Recordkeeping
- (H) Caregiver rights and grievance process
- (I) Licensing and placement regulations
- (J) Rights and responsibilities of foster family home providers

HANDBOOK BEGINS HERE

- (12) Health and Safety Code Sections 1529.2(b) and (c) provides:

~~"(a) In addition to the foster parent training provided pursuant to Section 903.7 of the Welfare and Institutions Code, foster family agencies shall supplement the community college training by providing a program of training for their certified foster families.~~

- "(b) (1) Every licensed foster parent shall complete a minimum of 12 hours of foster parent training, as prescribed in paragraph (3), before the placement of any foster children with the foster parent. In addition, a foster parent shall complete a minimum of twelve

hours of foster parent training annually as prescribed in paragraph (4). No child shall be placed in a foster family home unless these requirements are met by the persons in the home who are serving as the foster parents.

"(2) (A) Upon the request of the foster parent for a hardship waiver from the postplacement training requirement or a request for an extension of the deadline, the county may, at its option, on a case-by-case basis, waive the postplacement training requirement or extend any established deadline for a period not to exceed one year, if the postplacement training requirement presents a severe and unavoidable obstacle to continuing as a foster parent. Obstacles for which a county may grant a hardship waiver or extension are:

"(i) Lack of access to training due to the cost or travel required.

" (ii) Family emergency.

"(B) Before a waiver or extension may be granted, the foster parent should explore the opportunity of receiving training by video or written materials.

"(3) The initial preplacement training shall include, but not be limited to, training courses that cover all of the following:

"(A) An overview of the child protective system.

" (B) The effects of child abuse and neglect on child development.

" (C) Positive discipline and the importance of self-esteem.

" (D) Health issues in foster care.

" (E) Accessing education and health services available to foster children.

" (F) The right of a foster child to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

"(4) The postplacement annual training shall include, but not be limited to, training courses that cover all of the following:

" (A) Age-appropriate child development.

" (B) Health issues in foster care.

" (C) Positive discipline and the importance of self-esteem.

" (D) Emancipation and independent living skills if a foster parent is caring for youth.

" (E) The right of a foster child to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

"(5) Foster parent training may be attained through a variety of sources, including community colleges, counties, hospitals, foster parent associations, the California State Foster Parent Association's Conference, adult schools, and certified foster parent instructors.

"(6) A candidate for placement of foster children shall submit a certificate of training to document completion of the training requirements. The certificate shall be submitted with the initial consideration for placements and provided at the time of the annual visit by the licensing agency thereafter.

"(c) Nothing in this section shall preclude a county from requiring county-provided preplacement or postplacement foster parent training in excess of the requirements in this section."

~~(b) The following are examples of course, seminar, conference or training topics which will be accepted by the licensing agency to meet the requirements in (a) above. Programs which can be shown to be similar will also be accepted.~~

~~(1)—Child development~~

~~(2)—Recognizing and/or dealing with learning disabilities~~

~~(3)—Infant care and stimulation~~

- (4) ~~Parenting skills~~
- (5) ~~Complexities, demands and special needs of children in placement~~
- (6) ~~Building self-esteem, for the caregiver or the children~~
- (7) ~~Recordkeeping~~
- (8) ~~Caregiver rights and grievance process~~
- (9) ~~Licensing and placement regulations~~
- (10) ~~Rights and responsibilities of foster family home providers~~

HANDBOOK ENDS HERE

Authority cited: Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001); Sections 1530, and 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).

Reference: Sections 1501, 1506, 1506.7, 1529.1, 1529.2, 1529.3, and 1562, Health and Safety Code; and Sections 903.7 and 16001.9, Welfare and Institutions Code.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 01-08)

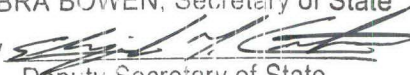
OAL FILE NUMBERS	NOTICE FILE NUMBER Z-07-0918-08	REGULATORY ACTION NUMBER 2008-0820-07 S	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

In the office of the Secretary of State of the State of California

FILED

SEP 18 2008

At 1:24 O'Clock P. M.
DEBRA BOWEN, Secretary of StateBy 
Deputy Secretary of State

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

California Department of Social Services

AGENCY FILE NUMBER (if any)

0107-01

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY ☐	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER 07, #39-Z	PUBLICATION DATE 9-28-2008

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Restaurant Meals for the Homeless, Elderly, and Disabled		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
TITLE(S) MPP		AMEND 63-102 and 63-504	
3. TYPE OF FILING		REPEAL	
☒ Regular Rulemaking (Gov. Code §11346) ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. ☐ Emergency Readopt (Gov. Code, §11346.1(h)) ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)			
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4) ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) ☐ File & Print ☐ Print Only			
☐ Emergency (Gov. Code, §11346.1(b)) ☐ Other (Specify) _____			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) N/A			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ \$100 Changes Without Regulatory Effect ☐ Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
☐ Department of Finance (Form STD. 399) (SAM §6660)		☐ Fair Political Practices Commission	
☐ Other (Specify) _____		☐ State Fire Marshal	
7. CONTACT PERSON Sandra Ortega, Manager, ORD		TELEPHONE NUMBER 916-657-2586	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional)

8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE



DATE

7/31/08

TYPED NAME AND TITLE OF SIGNATORY

ROBERT L. GARCIA, Deputy Director

Amend Section 63-102 to read:

63-102 DEFINITIONS (Continued)

63-102

(e) (1) (Continued)

(2) "Eligible food" means: (Continued)

(H) Meals purchased by eligible elderly, or homeless or disabled food stamp households under the provision of a CDSS-approved restaurant meal program. (Continued)

3. Before instituting a restaurant meals program, counties must first submit a written proposal to CDSS for review and approval. All county documents and definitions must reflect the requirements of federal and State regulations. The proposal must contain:

~~a. a draft identification card for eligible participants with the person's name, case number, expiration date and signature to be used in conjunction with the Golden State Advantage EBT card.~~

~~ba.~~ (Continued)

~~eb.~~ (Continued)

~~ec.~~ a draft Memorandum of Understanding (MOU) detailing the obligations of the county to:

(i) ~~issue an identification card to each eligible recipient provide recipients with the designated, updateable "restaurant indicator" directly associated with their Golden State Advantage EBT card;~~

(ii) (Continued)

~~ed.~~ a draft MOU detailing the obligations of the restaurant to: (Continued)

(iii) ~~prohibit the sale acceptance of alcoholic beverages food stamp benefits to for the participants purchase of alcoholic beverages; and~~

(iv) (Continued)

Authority cited: Sections 10553, 10554, 11265.1, .2 and .3, 18904, and 18910, Welfare and Institutions Code.

Reference: Sections 10554, 10830, 11486.5 and 18930 through 18934, Welfare and Institutions Code; 8 U.S.C.A. Section 1522(e); 42 U.S.C.A. 601, et seq.; and 42 U.S.C.A. 5122; 7 CFR 272, 7 CFR 272.4(f); 7 CFR 273, 7 CFR 273.1(c)(5); 7 CFR 271.2; 7 CFR 273.2, .2(e)(3), .2(j), (j)(4), and (v)(2)(i)(B); 7 CFR 273.4(a)(3)(ii) and (iv), .4(c), (c)(2), (c)(3)(iv), and (e)(3)(iv); 7 CFR 273.5(a); 7 CFR 273.8; 7 CFR 273.9(c)(1)(ii)(D); and (c)(11)(i) and (ii); 7 CFR 273.11(a)(2)(iii); 7 CFR 273.12(c)(3); and .12(e); 7 CFR 273.16(c); 7 CFR 273.18(a)(1)(ii); 7 CFR 273.18(e)(3)(v), (e)(5)(v) and (n)(1)(i); 7 CFR 273.21(b); 7 CFR 274.3(a)(2); 7 CFR 274.10; 7 CFR 274.12 and .12(h)(3); 7 CFR 278.1; 7 CFR 2710.2; 45 CFR 401; 45 CFR 400.62; Public Law (P.L.) 100-77, Section 802; Section 70 of Assembly Bill (AB) 444, Chapter 1022, Statutes of 2002; AB 692, (Chapter 1024, Statutes of 2002); Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 1, 1990) [Dock. No. CV-89-0768]; Section 66011, Education Code; P.L. 102-237, Section 902; 7 U.S.C. 2014(c)(2)(B) and (k)(2)(F); 7 U.S.C. 2022(b)(4); 8 U.S.C. 1631; U.S.D.A. Food and Nutrition Service Administrative Notices 94-39, 97-44, and 98-56; Hamilton v. Madigan (9th Cir. 1992) 961 F.2d 838; Food and Nutrition Service Quarterly Reporting/Prospective Budgeting waiver approval dated April 1, 2003; Food Stamp Act Section 6(k)(1); P.L. 104-193, Sections 272, 273, 805, 821, and 827 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); Federal Register Vol. 59, No. 224, dated November 22, 1994; Federal Register Vol. 65, No. 130, dated July 6, 2000 and Vol. 65, No. 149 Corrections, dated August 2, 2000, and Federal Register, Vol. 66, No. 229, dated November 28, 2001.

Amend Section 63-504 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY 63-504
(Continued)

.7 Identification (ID) Cards (Continued)

.72 Specially Marked ID Cards (Continued)

.723 Any household eligible to participate in the restaurant meal program shall ~~receive an ID card with the person's name, case number, expiration date and signature~~ have their eligibility for the program electronically verified using the Golden State Advantage Card.

HANDBOOK BEGINS HERE

(a) EBT counties are not to place stickers on EBT cards that could damage ATM/POS devices. ~~A separate ID card will be used in conjunction with the EBT card.~~

HANDBOOK ENDS HERE

.73 (Continued)

Authority cited: Sections 10553, 10554, 10604, 11265.1, .2, and .3, 11369, 18904, and 18910, Welfare and Institutions Code.

Reference: Sections 10554, 11265.1, .2, and .3, 18901.6, 18904, and 18910, Welfare and Institutions Code; 7 Code of Federal Regulations (CFR) 271.2; proposed 7 CFR 273.2(f)(1)(xii) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, (f)(8)(i); (f) (8)(i)(A) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; (f)(8)(ii), (h), and (h)(1)(i)(D), 7 CFR 273.2(j)(3) and (4); 7 CFR 273.8(b); 7 CFR 273.9(d)(6)(iii)(F), 7 CFR 273.10(d)(4), (f), (g)(1)(i) and (ii); 7 CFR 273.12(a)(1)(i)(A), (a)(1)(i)(B), and (a)(1)(i)(C)(2); proposed 7 CFR 273.12(a)(1)(vi) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, and (c); 7 CFR 273.12(e)(1), (e)(2), and (e)(4); 7 CFR 273.13(a)(2); 7 CFR 273.13(b)(1); 7 CFR 273.14; 7 CFR 273.14(b)(3) and (e); 7 CFR 273.18(e)(6)(ii); 7 CFR 273.21(e)(1), (f)(1)(iii), (f)(1)(iv)(B), (f)(2)(v), (h)(2)(iv), proposed (h)(2)(ix) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, (h)(3)(ii), (i), (j), (j)(1)(vi), (j)(1)(vii)(A) and (r), (j)(2)(iii), (j)(3)(ii), (j)(3)(iii)(B), (j)(3)(iii)(C),

and proposed (j)(3)(iii)(E) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; 7 CFR 274.10; 7 CFR 274.12(h)(3); Public Law (P.L.) 100-435, Section 351, P.L. 101-624, and P.L. 103-66; Section 1717, [7 U.S.C. 2014(e)]; 7 U.S.C. 2014(d)(7) and (e)(6)(C)(iii), 2017(c)(2)(B) and 2020(s); U.S.D.A. Food and Consumer Services, Administrative Notices 94-39 and 97-50; P.L. 104-193, Sections 801, 807 and 827 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); Federal Nutrition Service Quarterly Reporting/Prospective Budgeting waiver approval dated April 1, 2003; Federal Administrative Notice 97-99, dated August 12, 1997; United States Department of Agriculture (USDA), Food and Nutrition Service (FNS) Administrative Notice (AN) 3-23, dated May 1, 2003; USDA, FNS Waiver #2070014; and the Farm Security and Rural Investment Act of 2002 (P.L. 107-171).

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

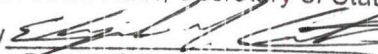
STD. 400 (REV. 01-08)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z- 07-0821-11	REGULATORY ACTION NUMBER 2008-0918-04SR	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Department of Social Services			
AGENCY FILE NUMBER (if any) ORD #0705-10			

FILED

In the office of the Secretary of State of the State of California

SEP 29 2008

 At 2:28 O'Clock P. M.
 DEBRA BOWEN, Secretary of State
 By 
 Deputy Secretary of State

 2008 SEP 18 PM 2:44
 OFFICE OF
 ADMINISTRATIVE LAW

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER 07-#35-2	PUBLICATION DATE 8-31-2007

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Training of Child Welfare Workers and Juvenile Probation Workers		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2008-0415-02S	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 14-611, 14-915, 14-916	
		AMEND 14-610	
TITLE(S) MPP		REPEAL	
3. TYPE OF FILING			
☐ Regular Rulemaking (Gov. Code §11346) ☒ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4) ☐ Emergency (Gov. Code, §11346.1(b))			
☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)			
☐ Emergency Readopt (Gov. Code, §11346.1(h)) ☐ File & Print ☐ Other (Specify) _____			
☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) ☐ Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) N/A			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ §100 Changes Without Regulatory Effect ☐ Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
☒ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal ☐ Other (Specify) _____			
7. CONTACT PERSON Sandra Ortega, Manager, Office of Regulations		TELEPHONE NUMBER 916-657-2586	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional)

8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

ROBERT L. GARCIA, Deputy Director

9/16/08

1. Amend Chapter 14-600 title and amend Section 14-610 to read:

CHAPTER 14-600 OPTIONAL TRAINING PROGRAMS

14-610 TRAINING FOR NEW SOCIAL SERVICE WORKERS

14-610

~~HANDBOOK BEGINS HERE~~

- ~~.1 County welfare departments are encouraged to provide training, in addition to that required in Chapter 14 500, to employees who are newly hired, transferred or promoted to social services positions.~~
- ~~.2 Such training should be provided within 90 calendar days from the date of employment or significant change in job duties.~~
- ~~.3 Content of such training may include, but is not limited to the following:~~
 - ~~.31 County social service and income maintenance programs and procedures.~~
 - ~~.32 Social casework process.~~
 - ~~.33 Interviewing techniques.~~
 - ~~.34 Case recording and case management.~~
 - ~~.35 Resource identification and utilization.~~

~~HANDBOOK ENDS HERE~~

- .1 County welfare departments shall provide training to employees who are newly hired, transferred or promoted to social services positions.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 1357.15(t); Social Security Act, 45 CFR 1355.35, and Section 16206, Welfare and Institutions Code.

1. Adopt Section 14-611 to read:

14-611 TRAINING FOR CHILD WELFARE WORKERS, CHILD WELFARE SUPERVISORS, AND JUVENILE PROBATION OFFICERS AND SUPERVISORS RESPONSIBLE FOR TITLE IV-E PLACEMENT ACTIVITIES 14-611

.1 All new child welfare workers shall complete a standardized core training program consistent with Welfare and Institutions Code Section 16206, as approved by the California Department of Social Services (CDSS).

.11 The following core training shall be completed within 12 months from the date of hire. This core training shall include, but is not limited to, the following topics which have a standard content:

.111 Framework for child welfare practice,

.112 Child maltreatment identification, Part 1: neglect, physical abuse, and emotional abuse,

.113 Assessment of safety, risk and protective capacity,

.114 Case planning, management and documentation,

.115 Child and youth development,

.116 Placement and permanency, and

.117 Statewide automated child welfare information system.

.12 The following core training shall be completed within 24 months from date of hire. This core training shall include standard competencies and objectives and may be delivered in multiple learning and training modalities. This core training shall include, but is not limited to, the following topics:

(a) Indian Child Welfare Act,

(b) Multiethnic Placement Act/Interethnic Adoptions Provisions,

(c) Court procedures,

(d) Documentation for legal reports,

(e) Basic interviewing,

- (f) Domestic violence,
 - (g) Substance abuse,
 - (h) Mental health,
 - (i) Ethics and values,
 - (j) Self-care for new child welfare workers,
 - (k) Education needs,
 - (l) Child welfare practice in a multicultural environment,
 - (m) Child maltreatment identification, Part 2: sexual abuse, and
 - (n) Health care needs.
- .2 Newly hired, assigned, or promoted direct line child welfare supervisors shall complete a standardized core training program, approved by the CDSS, within 12 months from the date of hire, assignment, or promotion.
- .21 Supervisor core training shall include, but is not limited to, the following topics:
- .211 Promising and research informed practice,
 - .212 Educational supervision,
 - .213 Policy context for child welfare practice,
 - .214 Managing for results/supervising toward outcomes (including state and federal reporting requirements),
 - .215 Case work supervision, and
 - .216 Fiscal fundamentals for children's services.
- .3 Each county shall determine in consultation with their Title IV-E project coordinator, if a new child welfare worker, who has completed one or more classes of the standardized core training through the Title IV-E traineeship, will not be required to repeat these same classes in the standardized core training program.
- .4 Standardized core training shall not be required when:
- .41 The county determines that a new child welfare worker has completed the standardized core in another county.

- .42 The county determines that a new direct line child welfare supervisor has completed the standardized core in another county.
- .43 CDSS may grant additional exceptions upon written request from the county.
- .5 All child welfare workers and supervisors shall undergo 40 hours of continuing training every 24 months. (See Sections 14-130(c) and 14-510.)
- .51 For new child welfare workers and newly hired, assigned, or promoted child welfare supervisors, required hours for continuing training will commence with the state fiscal year after completion of core training.
- .6 Juvenile probation officers and supervisors responsible for Title IV-E placement activities shall include once in their annual training: concurrent planning, visitation requirements and termination of parental rights practices. The training, approved by the California Department of Corrections and Rehabilitation and CDSS, shall be completed within 24 months of being assigned responsibility for Title IV-E placement activities.

HANDBOOK BEGINS HERE

- .61 The California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, Division 1, Board of Corrections, Subchapter 1, Standards and Training of Local Corrections and Probation Officers, Article 3, Minimum Standards for Training, Sections 184(a), (a)(1) and (a)(4) specify as follows:
- .611 “(a) Each full participation eligible staff member shall complete annual training, during any year he/she is not participating in a core course as identified in Section 171 of these regulations.”
- “(a)(1) Journey probation officer -- 40 hours.”
- “(a)(4) Probation supervisor -- 40 hours.”

HANDBOOK ENDS HERE

- .612 The training shall include, but is not limited to, the following areas:
- (a) Concurrent planning,
 - (b) Visitation requirements, and
 - (c) Termination of parental rights practices.
- .613 In addition to training required in Section 14-611.612, supervisor training shall also include, but is not limited to:

- (a) Case planning practices.
- (b) Comprehensive assessment of wards who are receiving Title IV-E placement services including screening for educational and mental health needs.
- (c) Understanding the significance of state and federal reporting requirements such as the Adoption and Foster Care Analysis and Reporting System and the National Child Abuse and Neglect Data System.

.7 A county welfare department or a county probation department shall notify the CDSS in writing if the county agency determines it cannot meet the timeframes for completion of any of the training cited above.

.71 The notification shall describe:

.711 the conditions or circumstances resulting in training requirements not being met and the number and percentage of staff impacted, and

.712 the actions to be taken to achieve compliance and the timeline for anticipated compliance.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 1357.15(t); 45 CFR 1355.35, and Section 16206, Welfare and Institutions Code.

1. Adopt Section 14-915 to read:

14-915 ADDITIONAL CHILD WELFARE DEPARTMENT REQUIREMENTS 14-915

.1 County welfare departments shall maintain records of all training completed per Chapter 14-900.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 1357.15(t); 45 CFR 1355.35, and Section 16206, Welfare and Institutions Code.

1. Adopt Section 14-916 to read:
2. Post-Hearing: Amend Section 14-916 to read:

14-916 PROBATION OFFICERS

14-916

- .1 Probation departments shall report the child welfare training, in their annual training plan, consistent with reporting requirements in CCR, Title 15, Crime Prevention and Corrections; Division 1, Board of Corrections; Chapter 1, Board of Corrections; Subchapter 1, Standards and Training of Local Corrections and Probation Officers; Article 8, Monitoring of Program Administration and Evaluation; Section 318 which specifies as follows:

HANDBOOK BEGINS HERE

- .11 "The Board shall monitor during each fiscal year the administration of the county or city Standards and Training Program to assess the progress and see that the program is operating in accordance with the approved application, these regulations, and the law."

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 1357.15(t); 45 CFR 1355.35, and Section 16206, Welfare and Institutions Code.

NOTICE/PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-08)

OAL FILE
NUMBERS

NOTICE FILE NUMBER

Z-

REGULATORY ACTION NUMBER

2008-0918-05 N

EMERGENCY NUMBER

For use by Office of Administrative Law (OAL) only

2008 SEP 18 PM 2:46

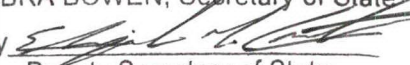
OFFICE OF
ADMINISTRATIVE LAW

ORIGINAL

FILED

In the office of the Secretary of State
of the State of California

OCT 28 2008

At 2:49 O'Clock P. M.
DEBRA BOWEN, Secretary of StateBy 
Deputy Secretary of State

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

California Department of Social Services

AGENCY FILE NUMBER (if any)

ORD #0608-04

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) RCFE Section 100 Renumbering		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
TITLE(S) 7.22 CCR/MPP		AMEND 87102	
		REPEAL	
3. TYPE OF FILING			
☐ Regular Rulemaking (Gov. Code §11346) ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4) ☐ Emergency (Gov. Code, §11346.1(b)) ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) ☐ Emergency Readopt (Gov. Code, §11346.1(h)) ☐ File & Print ☐ Other (Specify) _____ ☒ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) ☐ Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☒ §100 Changes Without Regulatory Effect ☐ Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
☐ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal ☐ Other (Specify) _____			
7. CONTACT PERSON Sandra Ortega, Chief, ORD		TELEPHONE NUMBER 916-657-2586	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional)

8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

JOHN A. WAGNER, Director

8/28/08

[TITLE 22, Division 6, Chapter 8.] ~~ARTICLE 2. LICENSE~~

[Move sections 87102 and 87104 under Article 1.]

87102. Descriptions of Forms.

The following forms, which are incorporated by reference, apply to the regulations in Title 22, Division 6, Chapter 8 (Residential Care Facilities for the Elderly).

- (a) LIC 9139 (2/01) - Renewal of Continuing Education Course Approval, Administrator Certification Program.
- (b) LIC 9140 (6/01) - Request for Course Approval, Administrator Certification Program.
- (c) LIC 9141 (5/01) - Vendor Application/Renewal, Administrator Certification Program.
- (d) PUB 325 (3/99) - Your Right To Make Decisions About Medical Treatment.
- (e) Core of Knowledge Guidelines (6/01/01) - RCFE 40-Hour Initial Certification.

Note: Authority cited: Section 1569.30, Health and Safety Code.
Reference: Section 1569.616, Health and Safety Code.

87104. Integral Facilities.

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[NOTE, History]

[Move "Article 2. License" heading AFTER section 87104.]

ARTICLE 2. LICENSE

[First section under Article 2 should now be section 87105.]

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 01-08)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2008-1216-03E
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Department of Social Services			
AGENCY FILE NUMBER (if any) ORD #1008-07			

For use by Secretary of State only

FILED

In the office of the Secretary of State of the State of California

DEC 26 2008

 At 10:50 O'Clock A. M.
 DEBRA BOWEN, Secretary of State
 By [Signature]
 Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) SB 39, Child Fatality Reporting and Disclosure Requirements		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 31-003 and 31-502	
		AMEND 31-002	
TITLE(S) MPP		REPEAL	
3. TYPE OF FILING			
☐ Regular Rulemaking (Gov. Code §11346) ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. ☐ Emergency Readopt (Gov. Code, §11346.1(h)) ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) ☒ File & Print ☐ Print Only ☒ Emergency (Gov. Code, §11346.1(b)) ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) ☐ Other (Specify) _____			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ \$100 Changes Without Regulatory Effect ☒ Effective other (Specify) 1/1/09			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
☐ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal ☐ Other (Specify) _____			
7. CONTACT PERSON Sandra Ortega, Chief, ORD		TELEPHONE NUMBER 916-657-2586	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional)

8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

[Signature]

DATE

12/10/08

TYPED NAME AND TITLE OF SIGNATORY

ROBERT L. GARCIA, Chief Deputy Director

Amend Section 31-002 to read:

31-002 DEFINITIONS (Continued)

31-002

(c) (Continued)

- (5) "Case Record" means an electronic and/or written record for each child receiving child welfare services beyond including, but not limited to, the emergency response protocol, that The Case Record contains all of the documentation requirements specified by the Division 31 regulations, and includes court documents maintained by the child welfare services agency, as defined in Rule 5.552 of the California Rules of Court. (Continued)

(g) (Continued)

- (3) "Guardian" means a person appointed by the superior court pursuant to the provisions of Probate Code Section 1514, or appointed by the juvenile court pursuant to the provisions of Welfare and Institutions Code Section 366.25 ~~or~~ .26. (Continued)

(r) (Continued)

- (7) "Risk assessment" means documented information collected from the child(ren), caregiver, and/or collateral support persons that evaluates the protective capacity of the caregiver, any likelihood for future maltreatment, the age and vulnerability of a child or children, while including objective values of different cultures that will not result in a disparity of treatment services provided to all families receiving child welfare services.

- (s) (1) "Safety assessment" means documented information collected from the child(ren), caregiver, and/or collateral support persons that evaluates and determines whether there are present dangers and/or imminent threats of serious harm/maltreatment to a child or children, while including objective values of different cultures that will not result in a disparity of treatment services provided to all families receiving child welfare services.

(12) (Continued)

(23) (Continued)

(34) (Continued)

(45) (Continued)

(56) (Continued)

(67) (Continued)

(78) (Continued)

(89) (Continued)

(910) (Continued)

Authority Cited: Sections 10553, ~~and~~ 10554, and 10850.4, Welfare and Institutions Code and Assembly Bill 1695, Section 21.

Reference: Sections 300, 300(c), 300(e), 306(b), 309(d), 319, 319(f), 727, 11402, and 16507.5(b) (as amended by AB 1695, Chapter 653, Statutes of 2001), 361, 361.2, 361.2(h), 361.3, 361.3(a)(8), 361.4(a)(3)(A), (b), and (c), 362.7, 366.22, 366.3(e)(4) and (e)(8), 391, 636.1(c), 706.6(o), 727, 727.2, 4094, 4094.5, 4094.6, 4094.7, 5585.58, 5600.3, 10553, 10554, 10850.4, 11100, 11105, 11108.15, 11155.5, 11400(a), 11402, 11404, 11467.1, 16001.5, 16001.9, 16010, 16012, and 16501, 16501(a)(3), 16501.1(e)(9), 16501.1(f)(7), 16503, 16504, 16506, 16506(c), 16507.5(b), 16516.5, 16520, 16521, 17736, and 18951(d), Welfare and Institutions Code; Section 11165 et seq., Penal Code; Section 265, Civil Code; 42 U.S.C. Section 675; Sections 1502, 1502(a)(8), 1505.2 (as added by Assembly Bill 1544, Chapter 793, Statutes of 1997), 1522, 1522.06, and 1530.8, Health and Safety Code; 45 CFR 233.120; 42 U.S.C. 675(5); Sections 7002, 7901, 7911, 7911.1, and 7912, Family Code; ~~and~~ Public Law 105-89 (Adoption and Safe Families Act of 1977), and Rule 5.552 of the California Rules of Court.

Adopt Section 31-003 to read:

31-003 DEFINITIONS - FORMS

31-003

(a) (Reserved)

(b) (Reserved)

(c) (Reserved)

(d) (Reserved)

(e) (Reserved)

(f) (Reserved)

(g) (Reserved)

(h) (Reserved)

(i) (Reserved)

(j) (Reserved)

(k) (Reserved)

(l) (Reserved)

(m) (Reserved)

(n) (Reserved)

(o) (Reserved)

(p) (Reserved)

(q) (Reserved)

(r) (Reserved)

(s) (1) SOC 826 (Rev. 11/08) Child Fatality/Near Fatality County Statement of Findings and Information.

(t) (Reserved)

(u) (Reserved)

(v) (Reserved)

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

Authority Cited: Sections 10553, 10554, and 10850.4, Welfare and Institutions Code.

Reference: Sections 827 and 10850.4, Welfare and Institutions Code and 42 USC 5106.

Adopt Section 31-502 to read:

31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502

- .1 The county shall submit a report to the Department for all child fatalities when there is reasonable suspicion, as defined in Penal Code Section 11166(a)(1), that a child fatality was caused by abuse and/or neglect.
- .11 When the county learns that a child fatality has occurred and there is reasonable suspicion that the fatality was caused by abuse and/or neglect, the county shall notify the Department by submitting the Child Fatality/Near Fatality County Statement of Findings and Information (SOC 826) form within five (5) business days.

HANDBOOK BEGINS HERE

- .111 The county may "learn" of the fatality in ways that may include, but not be limited to, a formal report, emergency response referral, a cross report from a law enforcement agency or a private party. Once this information is learned the standard condition of reasonable suspicion is applied.
- (a) Penal Code Section 11166(a)(1) defines "reasonable suspicion" and states in pertinent part: "reasonable suspicion" for the purposes of this section means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect.

HANDBOOK ENDS HERE

- .112 Once information regarding a child fatality is learned and there is reasonable suspicion that the cause was due to abuse and/or neglect, the county shall generate a referral within the Child Welfare Services/Case Management System, and the county shall respond to the referral as described in Section 31-101.
- (a) If the county finds an allegation to be inconclusive or substantiated, they shall complete the reporting requirements as described in Section 31-501.
- .113 The following information shall be reported to the Department, using the SOC 826 form:
- (a) The age and gender of the child.
- (b) The date of death.
- (c) Residence of child at the time of death.

(1) Foster care placement as defined by Section 31-002(f)(8).

(2) Parent or Guardian as defined by Sections 31-002(p)(1) and (g)(3).

(d) Whether an investigation is being conducted by a law enforcement agency and/or the county child welfare agency.

.2 The county shall report additional information to the Department, using the SOC 826 form, upon the completion of the child abuse and/or neglect investigation of the deceased child. The subsequent report shall include the information listed in Section 31-502.113 as well as the following:

.21 Whether the child fatality was or was not determined to be a result of abuse and/or neglect.

.22 The agency that made the determination whether the child fatality was or was not the result of abuse and/or neglect:

.221 CWS or Probation

A "determination" of abuse and/or neglect by CWS or Probation is the substantiation of abuse and/or neglect allegations as the direct cause of the fatality.

.222 Law Enforcement

A law enforcement investigation concludes that the child's death was a direct result of abuse and/or neglect.

.223 Coroner/Medical Examiner

A coroner/medical examiner concludes that the child's death was a direct result of abuse and/or neglect.

HANDBOOK BEGINS HERE

.224 Penal Code 11165.12(b) defines a "substantiated" report as one "that is determined by the investigator who conducted the investigation to constitute child abuse or neglect, as defined in Section 11165.6, based upon evidence that makes it more likely than not that child abuse or neglect, as defined, occurred."

HANDBOOK ENDS HERE

.23 If the child fatality is substantiated as a result of abuse and/or neglect, pursuant to Section 31-502.224, the findings and information related to the child fatality shall be included in the subsequent report to the Department.

- .3 Upon public request, whether written, verbal, or via email or facsimile, the county shall disclose information related to a child fatality to the requesting party in the following circumstances:
- .31 When there is reasonable suspicion that the fatality was a result of abuse and/or neglect, the county shall provide the information as listed in Section 31-502.113 to the requesting party within five (5) business days of receiving the request.
- .32 Upon receiving the public request for information pursuant to Sections 31-502.33 and/or .34, the county shall notify counsel for any child directly or indirectly related to the deceased child's case record.
- .33 When the agency, pursuant to Section 31-502.22, makes the determination that the child fatality was a result of abuse and/or neglect; the child resided with his/her parent or guardian, as defined by Sections 31-002(g)(3) and (p)(1), and the abuse and/or neglect was inflicted by the parent or guardian, the county shall release additional documents pertinent to that parent or guardian.
- .331 The following information, subject to redactions specified in Section 31-502.4, shall also be released by the county upon public request within ten (10) business days of receiving the request or the determination of the investigation, whichever is later:
- (a) All information listed in Section 31-502.113.
 - (b) Any emergency response referral information, completed by the county, which pertains to the abuse and/or neglect that caused the death of the child.
 - (c) Any previous referrals of abuse or neglect specific to the deceased child that were determined to be inconclusive or substantiated while living with that parent or guardian.
 - (d) Any cross reports relating to the deceased child that were completed by the county and sent to a law enforcement agency.
 - (e) Any copies of police reports about the person against whom the child abuse and/or neglect was substantiated.
 - (f) Any health care records, excluding mental health records, related to the child's death and previous injuries reflective of a pattern of abuse and/or neglect.
 - (g) Any risk and safety assessments, as defined by Sections 31-002(r)(7) and 31-002(s)(1), relating to the deceased child that were completed by the county.

.34 When the agency, pursuant to Section 31-502.22, makes the determination that the child fatality was a result of abuse and/or neglect; the child resided in foster care, and the abuse and/or neglect was inflicted by the foster parent(s), the county shall release additional documents pertinent to the foster parent(s).

.341 The following documents, subject to redactions specified in Section 31-502.4, shall also be released by the county to the requesting party within ten (10) business days of the request or the final determination of the investigation, whichever is later:

- (a) All of the information listed in Section 31-502.113.
- (b) The emergency response referral information, completed by the county, which pertains to the abuse and/or neglect that caused the death of the child.
- (c) Any previous referrals of abuse or neglect specific to the deceased child that were determined to be inconclusive or substantiated while living with the foster parent(s).
- (d) Any cross reports relating to the deceased child that were completed by the county and sent to a law enforcement agency pertinent to the foster parent(s).
- (e) Any copies of police reports about the person against whom the child abuse and/or neglect was substantiated.
- (f) Any health care records, excluding mental health records, related to the child's death and previous injuries reflective of a pattern of abuse and/or neglect inflicted by the foster parent(s).
- (g) Any risk and safety assessments, as defined by Sections 31-002(r)(7) and (s)(1), relating to the deceased child that were completed by the county pertinent to the foster parent(s).
- (h) Records pertaining to the foster parent's license and type of license or licenses held, if in the case record.

- (i) Records pertaining to the approval of the foster family home of the relative or non-related extended family member, including a caregiver assessment, and health and safety inspection of the home, if in the case record.
- (j) All documented licensing violations, including plans of correction, if in the case record.
- (k) Records of any training completed by the foster parent(s), if in the case record.
- (l) If licensing records pertaining to the foster parent(s) are not contained in the child's case record, the county shall release the documents and information specified in Sections 31-502.341(a) through (k) that are available within the case record and direct the requesting party to the appropriate licensing agency for any additional information or documents. For licensing/approval files maintained by the county, the county shall forward that part of the request to the appropriate county custodian of records.

- .35 When a child fatality has occurred as a result of abuse and/or neglect by a non-residential licensed child care provider, the county shall direct any public request to the appropriate licensing department or agency that has jurisdiction over the facility.
- .4 The county shall redact information that is privileged, confidential, or not subject to disclosure prior to public release.
- .41 After consultation with law enforcement or the District Attorney, if the release of specific information would jeopardize a criminal investigation or proceeding, that information shall be redacted prior to release.
- .42 If information for a child, including the deceased child or any sibling of the deceased child, as listed in Sections 31-502.331(a) through (g) and Sections 31-502.341(a) through (k), may be detrimental to the well-being of another child, counsel for that child may petition the juvenile court to prevent the release of any document or part of a document requested pursuant to Welfare and Institutions Code Section 827.
- .421 To comply with federal law, 42 USC 5106, the county shall release the SOC 826 form, whether or not a petition has been filed in the juvenile court.
- .422 Only information or documents that may pose potential detriment to a child who is directly or indirectly connected to the case, as found by the juvenile court, shall be redacted.
- .43 Information that shall be redacted includes:
 - .431 Names, except the name of a county or state department or agency shall not be redacted.

- .432 Addresses, except the address of a county or state department or agency shall not be redacted.
- .433 Telephone numbers, except the public telephone number of a county or state department or agency shall not be redacted.
- .434 Ethnicity.
- .435 Religion.
- .436 Social Security numbers or referral/case identifiers.
- .437 Any other identifying information of any person or institution, other than the county or state department or agency information indicated in Sections 31-502.431, 432 and 433.
- .44 The county shall adhere to all laws that govern confidentiality of the release of information.
- .441 The following are examples of state laws and rules and are not intended to be an exhaustive list of such laws and rules.
- (a) California Constitution: Article 1, Section 1
 - (b) Civil Code Sections 56.05 through 56.36
 - (c) Evidence Code Sections 990, 1010, 1560
 - (d) Family Code Sections 1818, 3111, 3118, 7643, 7805, 9200, 3041.5, 17212, and 17505
 - (e) Government Code: Public Records Act 6250-6276.48
 - (f) Health and Safety Code Section 255.7
 - (g) Penal Code Sections 293.5, 841.5, 851.8, 851.85, 1054.2, 1191.15, 1203.3(c), 4011.6, 11081, 11105, 11167.5, and 13300.
 - (h) Revenue and Tax Code Sections 19542 and 19548
 - (i) Welfare and Institutions Code Sections 300.2, 345, 676, 827, 828, 5328, 10850, and 11478.1
 - (j) Rules of Court, 3.60, 5.552, 7.1001(c), and 7.1050(c)

.442 The following are examples of federal laws and are not intended to be an exhaustive list of such laws.

- (a) 5 USC Section 552a
- (b) 15 USC Section 1681(b)
- (c) 20 USC Sections 1232(g), 1417(c), and 1418(a)(8)
- (d) 26 USC Section 6103
- (e) 42 USC Sections 405, 671(a)(8), 671(a)(20)(c)(iii), 675(1), 675(5)(D), and 5106(a) and (b)
- (f) 45 CFR 160 and 164, Health Insurance Portability and Accountability Act.
- (g) 45 CFR Sections 205.50, 302.34, 307.13, 1340.14(i), and 1340.20

.45 When a public request is made for documents other than those listed in Sections 31-502.331(a) through (g) and Sections 31-502.341(a) through (l), the county shall only release this information upon an order from the juvenile court pursuant to Welfare and Institutions Code Section 827.

.46 All case records shall be retained as described in Sections 31-075.2 through .21. The county is not required to retain case record documents beyond any date otherwise required by law.

.47 The county is not required to obtain documents that are not within the child's case record as defined in MPP Section 31-002(c)(5).

Authority Cited: Sections 10553, 10554, and 10850.4, Welfare and Institutions Code.

Reference: Penal Code Sections 11165.12, 11166, and 11169; 42 USC 5106; 45 CFR 1340.15(b), and Sections 827 and 10850.4, Welfare and Institutions Code.

**CHILD FATALITY/NEAR FATALITY
COUNTY STATEMENT OF FINDINGS AND INFORMATION****INSTRUCTIONS:**

For child fatality suspected to be as a result of abuse or neglect, complete part A and submit to the California Department of Social Services (CDSS) within 5 business days of learning of incident. Upon final determination of investigation of child fatality, complete parts A and B and *send update to the CDSS within 10 business days of notification of final determination from investigating agency.*

For child near fatality determined to be as a result of abuse or neglect, complete parts A and C and submit to the CDSS within 10 business days of notification of final determination from investigating agency.

PART A - ALWAYS COMPLETE THIS INFORMATION FOR CDSS SUBMISSION.

☐ Original Notification
Date form completed _____

☐ Updated Notification
Date form updated _____

Note: Redact information in this box prior to the public release of this document.

CWS/CMS 19 DIGIT REFERRAL # OF CHILD VICTIM:

COUNTY CONTACT AND PHONE NUMBER (INDIVIDUAL THAT CDSS WOULD CONTACT FOR ADDITIONAL INFORMATION):

COUNTY WHERE INCIDENT OCCURRED:

CHILD'S AGE

CHILD'S GENDER:

☐ MALE ☐ FEMALE

DATE OF FATALITY/NEAR FATALITY (IF KNOWN):

RESIDENCE OF THE CHILD AT THE TIME OF THE FATALITY/NEAR FATALITY:

☐ Home of parent/legal guardian ☐ Foster Care/Out-of-Home Care

INVESTIGATION CONDUCTED BY:

☐ Law Enforcement ☐ CWS/Probation

PART B - CHILD FATALITY FINDINGS - CONCLUSION OF INVESTIGATING AGENCY

DETERMINATION MADE BY:

☐ Coroner/Medical Examiner ☐ Law Enforcement ☐ CWS/Probation

☐ Fatality **NOT** a result of child abuse/neglect. IF CHECKED, STOP HERE

☐ Fatality as a result of Abuse or Neglect

FINDING OF CHILD FATALITY DUE TO (CHECK ALL THAT APPLY):

☐ Crime ☐ Suicide
☐ Non-Accidental ☐ Undetermined ☐ Other _____

PART C - CHILD NEAR FATALITY FINDINGS DETERMINED TO BE A RESULT OF ABUSE/NEGLECT

DETERMINATION MADE BY:

☐ Physician ☐ Law Enforcement ☐ CWS/Probation

DO NOT INCLUDE A NARRATIVE; CHECK THE APPROPRIATE BOXES ABOVE

*Please fax this form to: Children's Services Operations Bureau,
Attention: Bureau Chief at (916) 651-8144.*

NOTICE PUBLICATION/REGULATIONS SUBMISSION

CERT ORIGINAL
(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-08)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z- 2008-0617-04	REGULATORY ACTION NUMBER 2008-1223-04C	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

FILED

In the office of the Secretary of State
of the State of California

FEB 05 2009

At 3:38 O'Clock P M.
DEBRA BOWEN, Secretary of State
By *[Signature]*
Deputy Secretary of StateAGENCY WITH RULEMAKING AUTHORITY
California Department of Social ServicesAGENCY FILE NUMBER (if any)
ORD #0208-01

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER 08-1223-04C	PUBLICATION DATE 6-27-2008

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Senate Bill 1569 (Ch. 672, Stats. of 2006) Implementation	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2008-0620-02EFP
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SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT	Sections 40-037, 70-101, 70-102, 70-103, 70-104, and 70-105 (Amend - cont.) 69-202, and 69-205
	AMEND	Sections 30-755, 30-770, 40-105, 42-430, 42-431, 42-433, 42-711, 49-020, 49-030, 49-060, 63-403, 69-201,
	REPEAL	
TITLE(S) MPP		

3. TYPE OF FILING		
☐ Regular Rulemaking (Gov. Code §11346)	☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	☐ Emergency Readopt (Gov. Code, §11346.1(h))
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	☐ File & Print
☐ Emergency (Gov. Code, §11346.1(b))		☐ Other (Specify)

ENDORSED APPROVED

FEB 05 2009

☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
☐ Print Only

Office of Administrative Law

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
November 21 through December 8, 2008

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
☐ Effective 30th day after filing with Secretary of State	☒ Effective on filing with Secretary of State	☐ §100 Changes Without Regulatory Effect	☐ Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY		
☒ Department of Finance (Form STD. 399) (SAM §6660)	☐ Fair Political Practices Commission	☐ State Fire Marshal
☐ Other (Specify)		

7. CONTACT PERSON Sandra Ortega, Manager, Office of Regulations	TELEPHONE NUMBER (916) 657-2586	FAX NUMBER (Optional) (916) 654-3286	E-MAIL ADDRESS (Optional) sortega@dss.ca.gov
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8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

ROBERT L. GARCIA, Director Chief Deputy Director

12/23/08

INSTRUCTIONS FOR PUBLICATION OF NOTICE AND SUBMISSION OF REGULATIONS

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code §11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B).

CHANGES WITHOUT REGULATORY EFFECT

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

ABBREVIATIONS

Cal. Code Regs. - California Code of Regulations
Gov. Code - Government Code
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

Amend Section 30-755.113 to read:

Post-Hearing: Amend Section 30-755.113 to read:

30-755 PERSONS SERVED BY THE NON-PCSP IHSS PROGRAM

30-755

.1 Eligibility

.11 A person is eligible for IHSS who is a California resident living in his/her own home, and who meets one of the following conditions: (Continued)

.113 Meets all SSI/SSP eligibility criteria, except for income in excess of SSI/SSP eligibility standards or immigration criteria, and meets applicable share of cost obligations, ~~and~~

(a) A person must meet immigration status criteria as provided in 20 CFR Part 416, subpart P, or must meets the state program noncitizen status criteria as provided in MPP Section 30-770.51. (Continued)

Authority cited: Sections 10553, 10554, and 12150, Welfare and Institutions Code; Chapter 939, Statutes of 1992; and Senate Bill 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 10554, 12304.5, 12305, 12305.6, 13283, 14132.95, and 18945, Welfare and Institutions Code.

Adopt Sections 30-770.5 and .51 to read:

Post-Hearing: Amend Section 30-770.51 to read:

30-770 ELIGIBILITY STANDARDS (Continued)

30-770

.5 State Program NonCitizen Status

.51 A noncitizen victim of human trafficking, domestic violence or other serious crimes as defined under the Trafficking and Crime Victims Assistance Program (TCVAP), MPP Chapter 70-100, shall be eligible for IHSS if all other eligibility criteria are met.

.511 A victim of human trafficking must meet the same eligibility criteria as those used for the TCVAP found in MPP Sections 70-102 and 70-103.1. For examples of documentation requirements, please see Sections 70-103.2 through .4.

.512 A victim of domestic violence or other serious crimes must meet the same eligibility criteria as those used for the TCVAP found in MPP Section 70-104.1. For examples of the definition of a noncitizen victim of serious crime, please see Handbook Section 70-104.11. For examples of documentation requirements, please see Section 70-104.12.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283 and 18945, Welfare and Institutions Code.

Adopt Section 40-037 to read:

Post-Hearing: Amend Section 40-037.1 to read:

40-037 IMPLEMENTATION OF BENEFITS AND SERVICES TO 40-037
NONCITIZEN VICTIMS OF HUMAN TRAFFICKING,
DOMESTIC VIOLENCE, OR OTHER SERIOUS CRIMES

- .1 General These regulations extend eligibility for certain public social services, including state-funded CalWORKs, to certain noncitizen victims of trafficking, domestic violence or other serious crimes, as defined, who can demonstrate their eligibility for these programs, and to trafficking victims who are taking steps to meet eligibility conditions for federal benefits. The time limit provision specified in Section 42-302.1 shall also apply to noncitizen victims of trafficking, domestic violence and other serious crimes as defined in Section 42-431.23.
- .2 Effective Date All regulatory action implementing the provisions authorized by the federal Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193) as Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006) shall become effective for applicants and recipients July 2008. (Welfare Institutions Code Sections 13283, 14005 and 18945)
- .3 Sections Adopted 40-105.26, Social Security Number Exception
42-431.23 et seq., Eligibility Requirements
42-431.3 through .56, Determining Eligibility

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283, 14005.2, and 18945, Welfare and Institutions Code; 8 United States Code 1182(d)(5)(B), 45 Code of Federal Regulations 400.43; The Trafficking Victims Protection Act of 2000 (P.L. 106-386), Sections 107(b)(1)(A), (B), and (C); The Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193).

Amend Section 40-105.2 to read:

40-105 APPLICANT AND RECIPIENT RESPONSIBILITY (Continued)

40-105

.2 Social Security Number (SSN)

- .21 As a condition of eligibility, each CalWORKs applicant or recipient member of the AU shall: (Continued)
- .26 Individuals identified in Section 42-431.23, who are state-funded, are not required to meet this requirement. (Continued)

Authority cited: Sections 10553, 10554, 10604, 11209, 11253.5, 11265.2, 11265.3, 11265.8, 11266, 11268, 11450.5, and 11486, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 10553, 10554, 10604, 11209, 11253.5, 11265.3, 11265.8, 11266, 11268, 11486, 13283, 14005.2, and 18945, Welfare and Institutions Code; Section 48200, Education Code; 45 CFR 205.42(d)(2)(v)(A) and (B), as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808; 45 CFR 205.52(a)(1) and (2); 45 CFR 233.10(a)(1)(iv) and 235.112(b); 45 CFR 400.43; 7 CFR 273.16(b); 8 United States Code (USC) 1182(d)(5)(B); 42 U.S.C. 402(a)(6) and 616(b); and Section 301(a)(1)(A) and (B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193); California's Temporary Assistance for Needy Families State Plan dated October 9, 1996 and effective November 26, 1996; The Trafficking Victims Protection Act of 2000 (P.L. 106-386), Sections 107(b)(1)(A), (B), and (C); The Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193).

Amend Section 42-430 to read:

42-430 CITIZENSHIP AND NONCITIZEN STATUS

42-430

Only citizens of the United States and certain categories of noncitizens are eligible for CalWORKs. Citizens must prove their citizenship and noncitizens must prove their eligible noncitizen status. Aid shall not be authorized until eligible noncitizen status is verified.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 42-431 to read:

Post-Hearing: Amend Section 42-431 to read:

42-431 ELIGIBILITY REQUIREMENTS

42-431

As suggested in Section 42-430, to be eligible for assistance an applicant or recipient must be a California resident who is either: (Continued)

.2 A noncitizen who is: (Continued)

.23 A victim of trafficking, domestic violence or other serious crimes granted eligibility for certain public social services under ~~the Trafficking and Crime Victims Assistance Program (TCVAP)~~ Welfare and Institutions Code Section 18945.

.231 The CWD must determine the status of individuals applying for benefits as victims of human trafficking, domestic violence or other serious crimes.

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- (a) Severe forms of human trafficking are defined in the U.S. Code, Title 22, Section 7102 (8) as: Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- (b) Sections 1101(a)(15)(U)(i) and (iii) of Title 8 of the U.S. Code define noncitizen victims of serious crimes as aliens who:
 - (1) Have suffered substantial physical or mental abuse as a result of having been victims of criminal activity involving, or similar to, the following violations: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt; conspiracy or solicitation to commit any of the above mentioned crimes; and,
 - (2) Possess information concerning criminal activity (or in the case of an alien child under the age of 16, the parent, guardian, or adult representing the child); and
 - (3) Have been helpful, are being helpful, or are likely to be helpful to a federal, state, or local law enforcement official, prosecutor, or

judge or to other federal, state, or local authorities investigating or prosecuting criminal activities described above (or in the case of an alien child under the age of 16, the parent, guardian, or adult representative of the alien is helpful).

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- .3 Eligible noncitizen trafficking, domestic violence or other serious crime victims who meet all other eligibility criteria for cash assistance shall be aided under the CalWORKs program. See MPP Section 40-105.26 for SSN exception.
 - .31 If not otherwise eligible under the CalWORKs program requirements, these individuals shall have their eligibility determined under the Trafficking and Crime Victims Assistance Program (TCVAP).
- .4 Determination of Eligibility as a Victim of Human Trafficking: The county shall consider all forms of acceptable evidence as listed below.
 - .3241 For purposes of determining eligibility as a victim of human trafficking (Section 42-431.23), the CWD shall consider all relevant and credible evidence. A sworn statement by a victim or a representative, if the victim is unable to competently swear, shall be sufficient to verify trafficking status, if at least one item of additional evidence is provided. This evidence includes, but is not limited to the following:
 - .32411 Police, government agency, or court records or files;
 - .32412 News articles;
 - .32413 Documentation from a social services, trafficking, or domestic violence program, or a legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with the crime;
 - .32414 A statement from any other individual with knowledge of the circumstances that provided the basis for the claim;
 - .32415 Physical evidence;
 - .32416 A copy of a completed visa application;
 - .32417 Written notice from United States Citizenship and Immigration Services (USCIS) of receipt of the visa application.
 - .3342 If the victim of human trafficking cannot provide additional evidence, a sworn statement shall be sufficient if the county makes a determination that the applicant appears to be credible.

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.33421 The CWD may use a generic "under penalty of perjury" form for the sworn statement that contains the applicant's declaration that s/he is a victim of human trafficking.

.33422 The credibility of an applicant for purposes of accepting his/her sworn statement of trafficking status may be determined by applying the same standard used when determining credibility in domestic violence cases as defined in Section 42-715.12. The sworn statement is acceptable as long as unless there is an independent and reasonable basis, documented in writing, for finding the applicant not credible.

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.45 Determination of Trafficking Victim's Eligibility for Benefits and Services

.451 Once it has been determined that the applicant meets the definition of a victim of human trafficking, the CWD must verify that the applicant:

.4511 Has filed an I-914 application for T Nonimmigrant status (T Visa) with USCIS and the application has not been denied; or

.4512 Is preparing to file an application for a T Visa; or

.4513 Is otherwise taking steps to meet the eligibility conditions for federal benefits; or

.4514 Is a person for whom "continued presence" in the U.S. has been requested by federal law enforcement because s/he is assisting or willing to assist ~~the U.S. Attorney General~~ in the investigation or prosecution of human traffickers.

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.452 The following documentation can be used in determining whether an applicant has filed or is preparing to file for a T Visa:

.4521 A confirmation receipt or letter from USCIS verifying an application has been filed; or

.4522 A copy of the application for a T Visa (form I-914); or

.4523 If an applicant has not yet filed for a T Visa, the applicant's statement that he or she intends to file or is taking steps to become federally eligible (e.g., working with a community-based organization to prepare to qualify for federal benefits, working with law enforcement, etc.) will be acceptable.

- (a) Documentation could also include statements from persons in official capacities, (e.g., law enforcement officials or victims advocates) who have assisted or are assisting the victim with the T Visa application or steps to becoming eligible.

.453 "Continued Presence" is a status that allows trafficking victims assisting law enforcement to remain in the country during the course of a criminal investigation.

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.454 Eligibility for state-funded services for trafficking victims shall be terminated if:

.4541 The recipient has a final administrative denial of a T Visa application; or

- (a) "Final Administrative Denial" means that an appeal of the visa denial has been unsuccessful or the time to appeal the denial has passed without an appeal having been filed, whichever comes first.

.4542 The recipient has not applied for a T Visa within one year of the date of the CalWORKs application; or

.4543 A request on behalf of the recipient for continued presence has not been made within one year of the date of CalWORKs application; or

.4544 The recipient is issued a T Visa.

.455 When a trafficking recipient who is otherwise eligible receives his/her T Visa, the case is reviewed for Temporary Assistance For Needy Families (TANF) eligibility and application for SSN must be made in accordance with Section 40-105.21.

.56 Determination of Eligibility for Benefits and Services for Victims of Domestic Violence or Other Serious Crimes

.561 State-funded services for noncitizen victims of domestic violence or other serious crimes are available only when a request with USCIS for a U Visa has been filed, if otherwise eligible. This section also applies to individuals who have requested U Visa Interim Relief only if requested prior to October 17, 2007, if otherwise eligible. To be eligible under this section, the CWD must verify that these applicants:

.5611 Have filed a formal application for U Visa (Form I-918 and required supplements) with USCIS for status under Section 1101(a)(15)(U)(i) or (ii) of the Title 8 of U.S. Code or have requested U Visa Interim Relief prior to October 17, 2007, if otherwise eligible.

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- .562 Acceptable documentation for verifying that an application for a U Visa has been filed or a request for U Visa Interim Relief was filed (U Visa Interim Relief is acceptable only if a request for U Visa Interim Relief was filed prior to October 17, 2007) includes, but is not limited to:
- .5621 A confirmation receipt or letter from USCIS verifying that a request has been filed; or
 - .5622 The Notice of Action (form I-797) approving a U Visa or a request for U Visa Interim Relief (U Visa Interim Relief is acceptable only if a request for U Visa Interim Relief was filed before October 17, 2007); or
 - .5623 A form I-797 which serves as a fee receipt for an employment authorization request based on a U Visa application; or
 - .5624 A copy of the Petition for U Nonimmigrant status (Form I-918); or
 - .625 An Employment Authorization Document (EAD) issued under Category "A19" or "A20" for an approved U Visa petitioner.

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- .563 Eligibility for state-funded services will continue until the recipient has a final administrative denial, as defined in Section 42-431.4541(a), of a U Visa application or when the 60-month program limitation has been reached, whichever comes first.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283, 14005.2, and 18945, Welfare and Institutions Code; 8 United States Code 1182(d)(5)(B), 28 Code of Federal Regulations (CFR) Section 1100.35, ~~45 Code of Federal Regulations (CFR) Section 400.43~~; the Trafficking Victims Protection Act of 2000 (P.L. 106-386), Sections 107(b)(1)(A), (B), and (C); ~~the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193).~~

Amend Section 42-433 to read:

Post-Hearing: Amend Section 42-433 to read:

42-433 PROOF OF CITIZENSHIP OR ELIGIBLE
NONCITIZEN STATUS

42-433

A citizen must prove his/her citizenship to be eligible, as provided in Section 42-433.2. A noncitizen must prove that he/she is in one of the eligible categories described in Section 42-431.2 above, by presenting the appropriate documentation described in Section 42-433.31 below.

.1 Cooperation

Every applicant and recipient shall provide all information necessary to determine his/her citizenship or noncitizen status. An applicant or recipient whose citizenship or noncitizen status is evidenced by a document issued by the United States Citizenship and Immigration Services (USCIS) (e.g., a naturalized citizen or person whose American citizenship is derived from the citizenship of another person) must cooperate with USCIS when the county desires that his/her documentation be verified by USCIS (as when the documentation presented is believed by the county to be of doubtful authenticity). Any applicant or recipient who refuses to cooperate in the verification of his/her status shall not be eligible. See Sections 40-105 and 40-157.3. (Continued)

.3 Documentation – Noncitizens

- .31 Every noncitizen claiming eligible noncitizen status as defined in Section 42-431 shall be required to present documentation of that status, as follows:
 - .311 Noncitizens lawfully admitted for permanent residence (Section 42-431.21): USCIS Form I-551, or earlier forms I-151, AR-3 and AR-3a, if specifically endorsed to show legal right to reside permanently.
 - .312 Noncitizens granted asylum or refugee status (Section 42-431.221(a) and (b) and 42-431.222): USCIS Form I-94, annotated with the term asylum or asylee, refugee or conditional entry or entrant.
 - .313 Parolees (Section 42-431.221(c)): USCIS Form I-94 (Arrival-Departure Record – Parole Edition) endorsed to show bearer has been paroled in the U.S. pursuant to Section 212(d)(5) of the Immigration and Nationality Act.
 - .314 Persons granted indefinite voluntary departure or an indefinite stay of deportation (Section 42-431.223 and .224): A court order or correspondence from USCIS stating that the individual has been granted this status.
 - .315 Noncitizen victims of trafficking, domestic violence or other serious crimes must provide the respective documentation as set forth in Sections 42-431.4 through .6.

.32 A noncitizen who declares or presents documentation that he/she is lawfully present for temporary residence (e.g., a visitor whose period of admission has not expired) is not eligible except as noted in Sections 42-431.221(c) and .23.

.33 Documentation submitted by the noncitizen applicant in accordance with .31 above which the CWD believes to be of doubtful authenticity shall be accepted as evidence of eligibility only if the applicant cooperates with the CWD and USCIS in verifying his/her status. See Section 42-433.1. A CW-6 Document Verification Request (G-845S) completed by the applicant shall be referred immediately to USCIS. If USCIS returns the CW-6 G-845S to the CWD and indicates that USCIS is unable to complete the verification process due to noncooperation by the noncitizen, the CWD shall delete the noncitizen from the AU. A noncitizen who has been deleted from the AU for this reason may complete another CW-6 G-845S but shall not be reinstated to the AU until confirmation of eligible noncitizen status is received by the CWD from USCIS.

.34 Where a noncitizen victim of trafficking (as defined in Section 42-431.23) is basing his or her eligibility on MPP Sections 42-431.512 through .514 and does not have documentation that can be verified by USCIS, he or she is not required to complete a G-845S, Document Verification Request.

.4 Lack of Documentation

.41 If the noncitizen or naturalized/derivative citizen has no documentation of eligible status, the county welfare department shall inform the individual that:

.411 He/she may contact USCIS or otherwise obtain an USCIS document or other conclusive evidence verifying citizenship or eligible noncitizen status, or

.412 He/she may sign a CW-6 G-845S, authorizing the county to contact USCIS to obtain the necessary verification.

.42 If a noncitizen or naturalized/derivative citizen authorizes the county to contact USCIS to obtain verification of the applicant's status, the CWD shall forward two copies of the CW-6 G-845S to USCIS and retain a copy in the case file. When USCIS verification is returned to the CWD, the CWD shall notify the applicant.

.43 If the applicant does not wish to contact USCIS or give permission to the CWD to contact USCIS, the applicant may withdraw his/her application or the application shall be denied for noncooperation (see Sections 19-007.12 and 40-105.11).

.5 Receipt of CW-6 G-845S from USCIS

When a noncitizen's eligibility has been confirmed by USCIS and the completed CW-6 G-845S has been received by the CWD, the CWD shall resume processing the application and the beginning date of aid rules in Section 44-317 shall apply.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283, 14005.2, and 18945, Welfare and Institutions Code; 8 United States Code 1182(d)(5)(B), 45 Code of Federal Regulations 400.43; The Trafficking Victims Protection Act of 2000 (P.L. 106-386), Sections 107(b)(1)(A), (B), and (C); ~~The Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193).~~

Amend Section 42-711.5 to read:

42-711 WELFARE-TO-WORK PARTICIPATION REQUIREMENTS
(Continued)

42-711

.5 Assignment of Recipients to Welfare-to-Work Activities (Continued)

.53 Job Search (Continued)

.531 Recipients are required to participate in job search activities. At the option of the CWD, applicants may voluntarily participate. Exceptions to the requirement that all recipients must participate in job search activities are as follows: (Continued)

- (d) A noncitizen who is a victim of human trafficking, domestic violence or other serious crimes as specified in Section 42-431.23 who does not have authorization to work from the United States Citizenship and Immigration Services shall not be required to participate in job search. (Continued)

.55 Assessment

.551 Participants, except those excluded as provided in Sections 42-711.31, 42-711.557, and 42-711.558 and Section 42-719.111, shall be referred to assessment, if: (Continued)

- (b) The CWD determines that participation in job search will not be required as the first activity because it would not be beneficial;
- (c) The CWD decides to shorten job search because it is not likely to lead to employment, or;
- (d) The CWD determines that participation in job search will not be required if the recipient is a noncitizen victim of human trafficking, domestic violence or other serious crimes as specified in Section 42-431.23 and does not have authorization to work from the United States Citizenship and Immigration Services.
 - (1) A recipient who does not have authorization to work should be assigned to welfare-to-work activities that will assist him or her to prepare for future employment, which may include, but is not limited to, adult basic education (English language training), vocational education and training, domestic violence, mental health, and substance abuse services. (Continued)

Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 11203, 11253.5(b), 11320.1, 11320.1(c), 11320.15, 11320.3, 11322.6, 11322.8, 11324.8(a) and (b), 11325.2, 11325.21, 11325.22, 11325.23(a), (b), (c), (e), and (f), 11325.25, 11325.4, 11325.5, 11325.6, 11325.7, 11325.8, 11326, 11327.4 and .5, 11454, 13283, 15204.2 and .8, and 16501.1(d) and (f), and 18945(a), Welfare and Institutions Code; and 42 U.S.C. 607(c)(1)(A), (c)(1)(B)(ii), and (c)(2)(A)(i).

Amend Section 49-020 to read:

Post-Hearing: Amend Section 49-020.14 to read:

49-020 IMMIGRATION STATUS

49-020

.1 General requirements

.11 To be eligible for CAPI, a noncitizen must be one of the following:

.111 A legal immigrant who meets the immigration status requirements in effect for SSI/SSP on August 21, 1996, or

.112 A victim of human trafficking, domestic violence or other serious crimes as defined in Welfare and Institutions Code Section 18945. Applicants qualified under these provisions will be eligible for benefits and services to the same extent as individuals who are admitted to the United States as refugees.
(Continued)

.13 A victim of trafficking must meet the same eligibility criteria as those used for the State Trafficking and Crime Victims Assistance Program (TCVAP) found in MPP Sections 70-102 and 70-103.1 through .4.

.14 A victim of domestic violence or other serious crimes must meet the same eligibility criteria as those used for the TCVAP found in MPP Sections 70-104.1 through .125.

.2 (Continued)

.22 Noncitizens who do not meet the definition of Qualified Alien must meet the other immigration standards in effect for SSI/SSP on August 21, 1996, which are known as the PRUCOL categories as defined in Section 49-005(p), or be a victim of human trafficking, domestic violence or other serious crimes as specified in MPP Section 49-020.1, to be eligible for CAPI. (Continued)

.3 (Continued)

.32 To be eligible for extended CAPI, a noncitizen who meets the definition of Qualified Alien, Permanently Residing in the United States Under Color of Law (as defined in MPP Sections 49-005(q) and (p), respectively), or who is a victim of human trafficking, domestic violence or other serious crimes as specified in MPP Section 49-020.1, must have entered the United States on or after August 22, 1996 and be ineligible for basic CAPI under any of the conditions described in MPP Sections 49-020.311 through .313. (Continued)

Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: 20 CFR 416.1600; P.L. 104-193 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996) as amended, Sections 401 and 402 and Sections 13283, 18938, 18940, 18944, and 18945, Welfare and Institutions Code.

Amend Section 49-030.1 to read:

49-030 INELIGIBILITY FOR SSI/SSP

49-030

- .1 To be eligible for CAPI, an individual must be ineligible for SSI/SSP solely due to his or her immigration status.
- .11 Ineligibility must be verified by one of the following: (Continued)
 - .113 A county determination that the applicant is not a Qualified Alien (or considered as such) as defined in MPP Section 49-005(q)(1). (Continued)

Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code.

Reference: Sections 13283, 18938, 18939, and 18945 Welfare and Institutions Code.

Amend Section 49-060.1 to read:

49-060 BENEFIT SUSPENSIONS AND TERMINATIONS

49-060

.1 A recipient's CAPI benefit shall be suspended when any of the following events occur.
(Continued)

(k) The recipient's immigration status no longer meets the criteria specified in MPP Section 49-020.1. This specifically includes:

- (1) A victim of human trafficking whose application for a T Visa has been finally administratively denied, or who has not applied for a T Visa within one year of the CAPI application date, or on whose behalf a request for continued presence has not been made within one year of the CAPI application date, the recipient has been issued a T Visa; or
- (2) A victim of domestic violence or other serious crimes whose application for a U visa has been finally administratively denied.

An application for a visa has been finally administratively denied when an appeal of the visa denial has been unsuccessful or the time to appeal the denial has passed, whichever comes first.

Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: 20 CFR 416.1323; 20 CFR 416.1324; 20 CFR 416.1325; 20 CFR 416.1330; 20 CFR 416.1331; 20 CFR 416.1333 through .1335; P.L. 104-193, Section 202 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996), and Sections 18937, 18938, 18940, and 18945, Welfare and Institutions Code.

Amend Section 63-403 to read:

Post-Hearing: Amend Section 63-403.11 to read:

63-403 CALIFORNIA FOOD ASSISTANCE PROGRAM (CFAP)

63-403

.1 Noncitizen Eligibility

Certain legal noncitizens of the United States (U.S.) shall be eligible for CFAP if they are not eligible for federal Food Stamp (FS) benefits, based solely on their immigration status under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 as amended by the Food Stamp Reauthorization Act of 2002. Legal presence can be verified through USCIS at application [i.e. Systematic Alien Verification for Entitlements (SAVE) System]. Legal noncitizens whose time limit has expired for the federal program but would otherwise remain eligible for federal benefits are eligible for CFAP.

.11 Victims of trafficking, domestic violence, or other serious crimes.

Welfare and Institutions Code Section 18945 established eligibility for this group of noncitizens. Eligibility rules are outlined in Sections 42-431.23, .3, .4, and .5, and .6. Examples of documentation to be considered in determining an applicant's experience with human trafficking, domestic violence, or other serious crimes can be found in Sections 42-431.4, .5 and .6.

.2 Application of Existing Regulations

Current federal FSP regulations contained in the State FSP Manual (Division 63 of the CDSS Manual of Policies and Procedures) will apply to the CFAP and its participants unless otherwise stated. For CFAP recipients who do not meet exemptions from deeming, the period for deeming of a sponsor's income and resources shall be three years from the date of the sponsor's execution of the 213A Affidavit of Support. Victims of abuse by their sponsor or sponsor's spouse shall be exempt from deeming.

.21 Existing federal FSP regulations apply to victims of human trafficking, domestic violence, or other serious crimes, except where otherwise indicated.

.211 As a condition of eligibility, when the noncitizen victim of human trafficking, domestic violence, or other serious crimes does not have permission to work in the United States and the Social Security Administration will not issue a social security number, this requirement is suspended until such time as the individual's ability to obtain a social security number changes.

.3 CFAP work requirements are provided in Section 63-411.

.31 Trafficking, domestic violence, or other serious crime applicants shall not be subject to food stamp work requirements. This includes the Able-Bodied Adult Without Dependents (ABAWD) work requirement, and requirements for food stamp work registration and participation in the Food Stamp Employment and Training (FSET)

program. In addition, recipients shall not be subject to penalties for voluntary quit and reduction of hours worked. However, this group may participate in other education or training to the extent such participation is permissible. (Continued)

Authority cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 11320.3, 11495.12, 18930 through 18934, and 18945, Welfare and Institutions Code (as amended by AB 1111, Chapter 147, Statutes of 1999 and AB 429, Chapter 111, Statutes of 2001); 7 CFR 273.4; Federal Register, Vol. 61, No. 202, dated 10/17/96; Federal Register, Vol. 52, No. 103, dated May 29, 1987; USDA, Food and Consumer Service, Administrative Notice 97-105, dated August 21, 1997; and Section 4401(a) of the Food Stamp Reauthorization Act of 2002, P.L. 170-171 [8 U.S.C. Section 1612(a) and 8 U.S.C. Section 1613(c)].

Amend Section 69-201.3 to read:

69-201 GENERAL STATEMENT (Continued)

69-201

- .3 County Welfare Departments (CWDs) shall determine the eligibility of refugees in the Refugee Resettlement Program (RRP) for CalWORKs and Refugee Cash Assistance (RCA). Eligibility for SSI/SSP shall be determined by the Social Security Administration. The CWD shall administer these programs according to federal policy under the supervision of CDSS for financial assistance and social services, and the State Department of Health Care Services (DHCS) for medical services. Eligibility for benefits and services of noncitizen victims of a severe form of human trafficking who do not qualify under Sections 69-202.15 and .16, and noncitizen victims of domestic violence or other serious crimes shall be determined pursuant to Chapter 70-100, the Trafficking and Crime Victims Assistance Program (TCVAP). (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283 and 18945, Welfare and Institutions Code; 45 Code of Federal Regulations 400 and 400.5.

Amend Section 69-202 to read:

Post-Hearing: Amend Section 69-202.41 to read:

69-202 UNITED STATES CITIZENSHIP AND IMMIGRATION
SERVICES (USCIS) STATUS REQUIREMENT

69-202

- .1 For purposes of determining eligibility for cash assistance and social services under RRP, a person must provide proof, in the form of documentation issued by the USCIS, of one of the following statuses: (Continued)
 - .15 Certified as a victim of a severe form of trafficking by the federal Office of Refugee Resettlement (ORR). (For a noncertified, noncitizen victim of a severe form of human trafficking or noncitizen victim of domestic violence or other serious crimes, see Chapter 70-100.)
 - .16 Eligible family members of a victim of a severe form of trafficking certified by ORR who have a T-2, T-3, T-4, or T-5 Visa. (For family members of a noncertified, noncitizen victim of a severe form of human trafficking or noncitizen victim of domestic violence or other serious crimes, see Chapter 70-100.) (Continued)
- .2 For purposes of determining eligibility for assistance and social services under RRP, the term "refugee" does not include: (Continued)
 - .23 Any person determined eligible pursuant to Chapter 70-100 (TCVAP). (Continued)
- .4 RCA
 - .41 For purposes of determining eligibility for RCA, RCA means cash assistance provided to refugees who have been determined to be ineligible for CalWORKs or SSI/SSP and who have resided in the United States for no longer than the period of time required by federal regulations contained in 45 CFR Sections 400 et seq. or official issuances from the Director of the Federal Office of Refugee Resettlement. This period of time is referred to as time eligibility.
 - .411 Time eligibility (as described in MPP Section 69-205.24) does not apply to determinations for state TCVAP cash aid (see Chapter 70-100.) However, lifetime limits for months on aid do apply. (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283 and 18945, Welfare and Institutions Code; 8 U.S.C. 1182(d)(5)(B) 45 CFR 400.43; The Trafficking Victims Protection Reauthorization Act of 2000 (P.L. 106-386), Sections 107(b)(1)(A), (B), and (C); and The Trafficking Victims Protection Reauthorization Act of 2003 (P.L. 108-193).

Amend Section 69-205.2 to read:

69-205 ELIGIBILITY FOR REFUGEE CASH ASSISTANCE (RCA)
(Continued)

69-205

.2 Eligibility Determination (Continued)

.21 The eligibility of each RCA applicant shall be determined as promptly as possible within no more than 30 days from the date of application. (Continued)

.212 For victims of a severe form of human trafficking who are receiving state TCVAP cash aid and who have obtained ORR certification and are now eligible for RCA, a new eligibility period will commence pursuant to Section 69-202.411 and the beginning date of aid is determined as follows:

- (a) If the original application for assistance is still current, the beginning date of aid is the date of ORR certification (see Section 70-105.13).
- (b) If the original application is no longer current, the regular beginning date of aid rule at Section 69-205.211 applies.
- (c) There shall be no break in service and the recipient shall be notified of the new eligibility period.

.213 Claiming for cases being converted from TCVAP to RCA shall be changed from state-only to federal effective the beginning date of RCA. (Continued)

.24 Time-Eligibility

.241 Eligibility for RCA is limited to the number of months required in Section 69-202.41 following the refugee's date of entry in the United States. The month of entry, as indicated on the USCIS Form I-94, is counted as the first month. Time-eligibility exceptions to this provision include asylees who are eligible for RCA beginning on the date they are granted asylum, victims of a severe form of trafficking who are eligible for RCA beginning on the date they are certified by the ORR; eligible family members of certified trafficking victims who are eligible for RCA from the date of entry into the U.S. or the date of the Derivative T Visa is issued if already present in the U.S.; and unaccompanied refugee minors (Section 69-213) who are not subject to the time-eligibility limitation. Noncitizen victims of a severe form of human trafficking who are not eligible under Sections 69-202.15 and .16 and victims of domestic violence or other serious crimes, are not subject to the time-eligibility limitation under Section 70-105.121.

Authority cited: Section 10554, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 10553, 13283, and 18945, Welfare and Institutions Code; 45 CFR 400.55; 45 CFR 400.66; and 45 CFR 400.81(b); The Trafficking Victims Protection Act of 2000 (P.L. 106 - 386), Sections 107(b)(1)(A), (B), and (C); and the Trafficking Victims Protection Reauthorization Act of 2003 (P.L. 108-193).

Adopt Division 70, Chapter 70-100 and Section 70-101 to read:

DIVISION 70 SPECIAL PROGRAMS

CHAPTER 70-100 TRAFFICKING AND CRIME VICTIMS ASSISTANCE
PROGRAM (TCVAP)

70-101 GENERAL STATEMENT

70-101

- .1 These regulations implement Senate Bill (SB)1569 (Chapter 672, Statutes of 2006), which established the state TCVAP in order to provide public social services and health care services to noncitizen victims of a severe form of human trafficking who are not eligible under Sections 69-202.15 and .16 and to noncitizen victims of domestic violence or other serious crimes. Applicants qualified under these provisions will be eligible for benefits and services to the same extent as individuals who are admitted to the United States as refugees under Sections 69-201 et seq.
- .2 County Welfare Departments (CWDs) shall determine the eligibility of applicants for TCVAP. The CWD shall administer these programs according to state policy under the supervision of CDSS for public social services, and the State Department of Health Care Services for medical services.
 - .21 Sections 70-102 and 70-103 shall be applied when determining the status and eligibility of trafficking victims.
 - .22 Section 70-104 shall be applied when determining the eligibility of domestic violence and other serious crime victims.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283 and 18945, Welfare and Institutions Code.

Adopt Section 70-102 to read:

70-102 DETERMINATION OF TRAFFICKING VICTIM STATUS

70-102

- .1 The CWD shall determine the trafficking status of non-federally eligible individuals applying for state benefits and services as victims of a severe form of human trafficking.

HANDBOOK BEGINS HERE

- .11 Severe forms of human trafficking are defined in the U.S. Code, Title 22, Section 7102(8) as: Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

HANDBOOK ENDS HERE

- .2 For purposes of determining eligibility as a victim of a severe form of human trafficking for TCVAP, a sworn statement by the victim, or a representative if the victim is not able to competently make a sworn statement, is sufficient to verify trafficking status, if at least one item of additional evidence is provided, including, but not limited to:
 - .21 Police, government agency, or court records or files;
 - .22 News articles;
 - .23 Documentation from a social services, trafficking, or domestic violence program, or a legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with the crime;
 - .24 A statement from any other individual with knowledge of the circumstances that provided the basis for the claim;
 - .25 Physical evidence;
 - .26 A copy of a completed visa application;
 - .27 Written notice from USCIS of receipt of the visa application.
- .3 If the victim cannot provide additional evidence, the sworn statement shall be sufficient if the county makes a determination documented in the case file that the applicant is credible.

~~HANDBOOK BEGINS HERE~~

- .31 The CWD may use a generic "under penalty of perjury" form for the sworn statement that contains the applicant's declaration that s/he is a victim of a severe form of human trafficking.

~~HANDBOOK ENDS HERE~~

Authority cited: Section 10553, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283 and 18945, Welfare and Institutions Code.

Adopt Section 70-103 to read:

Post-Hearing: Amend Section 70-103.14 to read:

70-103 DETERMINATION OF TRAFFICKING VICTIMS' ELIGIBILITY 70-103
FOR TCVAP BENEFITS AND SERVICES

- .1 Once it has been determined that the applicant meets the definition of a victim of a severe form of human trafficking, in order to determine the applicant's eligibility for TCVAP, the CWD must verify that the applicant:
 - .11 Has filed an I-914 application for T Nonimmigrant status (T Visa) with USCIS and the application has not been denied; or
 - .12 Is preparing to file an application for a T Visa; or
 - .13 Is otherwise taking steps to meet the eligibility conditions for federal benefits; or
 - .14 Is a person for whom "continued presence" in the U.S. has been requested by federal law enforcement because s/he is assisting or willing to assist ~~the U.S. Attorney General~~ in the investigation or prosecution of human traffickers.

HANDBOOK BEGINS HERE

- .2 The following documentation may be useful in determining whether an applicant has filed for a T Visa:
 - .21 A confirmation receipt or letter from USCIS verifying an application has been filed; or
 - .22 A copy of the application for a T Visa (form I-914).
- .3 If an applicant has not yet filed for a T Visa, the applicant's statement that s/he intends to file or is taking steps to become federally eligible (e.g., working with a community-based organization to prepare to qualify for federal benefits, working with law enforcement, etc.), will be acceptable.
 - .31 Documentation could include statements from persons in official capacities, (e.g., law enforcement officials or victims advocates) who are assisting the victim with the T Visa application or steps to becoming eligible.
- .4 "Continued Presence" is a status that allows victims assisting law enforcement to remain in the country during the course of a criminal investigation.

HANDBOOK ENDS HERE

- .5 Eligibility for state-funded services shall be terminated if:

- .51 The recipient's application for a T visa has been finally administratively denied; or,
 - .511 An application for a visa has been "finally administratively denied" when an appeal of the visa denial has been unsuccessful or the time to appeal the denial has passed without an appeal having been filed, whichever comes first.
- .52 The recipient has not applied for a T Visa within one year of the date of application for public social services; or,
- .53 A request on behalf of the recipient for continued presence has not been made within one year of date of application for public social services; or
- .54 The recipient has been issued a T Visa.

Authority cited: Section 10553, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283 and 18945, Welfare and Institutions Code.

Adopt Section 70-104 to read:

Post-Hearing: Amend Section 70-104 to read:

70-104 DETERMINATION OF SERIOUS CRIME VICTIMS'
ELIGIBILITY FOR TCVAP BENEFITS AND SERVICES

70-104

- .1 In determining eligibility for TCVAP, the CWD must verify that the applicant has filed a formal application for a U Visa (Form I-918 and required supplements) with USCIS under Section 1101(a)(15)(U)(i) or (ii) of Title 8 of the U.S. Code. This section also applies to individuals who requested U Visa Interim Relief only if requested prior to October 17, 2007.

HANDBOOK BEGINS HERE

- .11 Federal law defines noncitizen victims of serious crimes as aliens who:
- .111 Have suffered substantial physical or mental abuse as a result of having been victims of criminal activity involving, or similar to, the following violations: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy or solicitation to commit any of the above mentioned crimes; and,
 - .112 Possess information concerning criminal activity (or in the case of an alien child under the age of 16, the parent, guardian, or adult representing the child); and
 - .113 Have been helpful, are being helpful, or are likely to be helpful to a federal, state, or local law enforcement official, prosecutor, or judge or to other federal, state, or local authorities investigating or prosecuting criminal activities described above (or in the case of an alien child under the age of 16, the parent, guardian, or adult representative of the alien is helpful).

HANDBOOK ENDS HERE

- .12 Acceptable documentation for verifying that an application for a U Visa has been filed or that U Visa Interim Relief was requested (U Visa Interim Relief is acceptable only if a request for U Visa Interim Relief was filed before October 17, 2007) includes, but is not limited to:
- .121 A confirmation receipt or letter from USCIS verifying that a request has been filed; or

- .122 The Notice of Action (form I-797) approving a U Visa or request for U Visa Interim Relief (U Visa Interim Relief is acceptable only if a request for U Visa Interim Relief was requested before October 17, 2007); or
- .123 A form I-797 which serves as a fee receipt for an employment authorization request based on a U Visa application; or
- .124 A copy of the Petition for U Nonimmigrant status (Form I-918); or
- .125 An Employment Authorization Document (EAD) issued under Category "A19" or "A20" for an approved U Visa petitioner.

HANDBOOK ENDS HERE

- .2 Eligibility for state-funded services for victims of serious crimes will be terminated when the recipient's application for a U Visa has been finally administratively denied, as defined in Section 70-103.511, or when the 60-month program limitation has been reached, whichever comes first.

Authority cited: Section 10553, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283 and 18945, Welfare and Institutions Code.

Adopt Section 70-105 to read:

70-105 TCVAP BENEFITS AND SERVICES

70-105

.1 Eligibility Procedures for TCVAP Benefits and Services Equivalent to Refugee Cash Assistance (RCA).

Individuals determined eligible pursuant to Sections 70-102 through 70-104 are entitled to benefits and services to the same extent as refugees as defined at Sections 69-202.1 and .2, and are subject to the same requirements (outside of legal status) as RCA recipients as described in Sections 69-204 through 69-216, with the following exceptions that include, but are not limited to:

.11 Eligibility for Other Programs (cross-reference Section 69-204)

.111 Noncitizen victims of a severe form of human trafficking and noncitizen victims of domestic violence or other serious crimes applying for benefits under these provisions shall not be required to apply for SSI/SSP, as it would be inappropriate to impose a requirement for which it is known there is no eligibility.

.112 Noncitizen victims of a severe form of human trafficking and noncitizen victims of domestic violence or other serious crimes who qualify for assistance under CAPI shall be aided under CAPI.

.113 Noncitizen victims of a severe form of human trafficking and noncitizen victims of domestic violence or other serious crimes who qualify for assistance under the state CalWORKs program shall be aided under the state CalWORKs program.

.12 Eligibility for TCVAP Cash Aid (cross-reference Section 69-205)

.121 Neither time-eligibility nor refugee status criteria apply in TCVAP cases.

.122 Eligibility for TCVAP cash aid is limited to the number of months required in Section 69-202.41 following the date of application.

.123 TCVAP trafficking recipients are permitted one year to apply for a T Visa, and are limited to a maximum of 8 months of TCVAP cash aid during this period.

(a) If 8 months of TCVAP is paid prior to the year elapsing and TCVAP cash aid is discontinued, services for which recipients are eligible may continue until the twelve-month period elapses.

(b) If the TCVAP recipient files an application for a T Visa during this year, there is still an 8 month maximum limit on TCVAP cash aid, but services for which they are eligible continue.

- (c) If the recipient does not file an application for a T Visa within one year of the date of application, the case shall be discontinued.
- (d) If ORR certification is obtained, the case is converted to RCA, pursuant to Section 70-105.13.
- (e) If the request for a T Visa is finally administratively denied, as defined in Section 70-103.511, the case is discontinued.

.124 TCVAP crime victim recipients must have filed a request for a U Visa in order to be eligible for TCVAP benefits and services. Once eligible, they are limited to a maximum of 8 months of TCVAP cash aid and continuing services for which they are eligible.

- (a) If/when the U Visa request is finally administratively denied, as defined in Section 70-103.511, the TCVAP case shall be discontinued.

.13 Conversion to RCA

When a TCVAP trafficking recipient obtains ORR certification, a determination shall be made of RCA eligibility (see Section 69-205). If all eligibility factors for RCA are met, the TCVAP case shall be discontinued and a new eligibility period for RCA shall be granted pursuant to Section 69-202.411, for the maximum period allowable under that section.

.14 Employment/Training Requirements and Exemptions (cross-reference Section 69-207)

.141 Compliance with certain Registration, Employment and Employment-Directed Education/Training Requirements shall not be required if the recipient does not have work authorization from USCIS.

- (a) TCVAP recipients might not possess a social security number or be authorized to work. Employment-directed education and training must be appropriate to the situation, therefore, if a recipient is technically or legally unable to participate s/he cannot be required to do so. If a recipient is unable to work or participate in a CWD approved employment-directed program due to lack of work authorization, s/he would not be required to participate in job search activities, or be referred to the Employment Development Department. Activities should be identified that will assist the recipient to prepare for future employment, such as English language training, job skills development, job-specific training, etc.

.142 In addition to the exemptions from appropriate applicable work registration, employment and training requirements found at Section 69-207.3, an exemption shall be available to TCVAP recipients if physical or psychological

trauma related to or arising from the victimization impedes their ability to comply, when verified by a physician's written statement that the illness or injury is serious enough to temporarily prevent his/her entry into an appropriate education/training program.

.15 Case Records (cross-reference Section 69-216)

A TCVAP applicant/recipient might not possess a passport, Alien Registration number, or any USCIS documentation. The case record shall include the following information in addition to that required by CalWORKs program regulations:

.151 Documentation gathered to verify trafficking status, as described in Section 70-102.2.

.152 The applicant's sworn statement.

(a) The county's written determination of the applicant's credibility if the sworn statement is the only evidence available.

.153 Documentation gathered for verifying that the applicant has filed or intends to file for a T Visa (see Sections 70-103.1 through .4).

.154 Documentation gathered for verifying that the applicant has filed for a U Visa (see Section 70-104.1).

Authority cited: Section 10553, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283 and 18945, Welfare and Institutions Code.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

CERT ORIGINAL
(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-08)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z- 2008-0617-05	REGULATORY ACTION NUMBER 2008-1224-01C	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

2008 DEC 24 AM 10:19

OFFICE OF
ADMINISTRATIVE LAW

FILED

In the office of the Secretary of State
of the State of California

FEB 09 2009

At 1:44 O'Clock P. M.
DEBRA BOWEN, Secretary of State
By *[Signature]*
Deputy Secretary of State

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
California Department of Social Services

AGENCY FILE NUMBER (If any)
ORD# 0308-02

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed ☐ Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER 08-1126-2	PUBLICATION DATE 6-27-2008

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Emergency Regulations-Minimum Sanction Periods & County Plan Addendum	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2008-0619-01EPF
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT	ENDORSED APPROVED FEB 09 2009 Office of Administrative Law
	AMEND 42-721, 42-780, 44-303, 44-307, 44-318, 82-182	
	REPEAL	
TITLE(S) MPP		

3. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code §11346)	☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	☐ Emergency Readopt (Gov. Code, §11346.1(h))	☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	☐ File & Print	☐ Print Only
☐ Emergency (Gov. Code, §11346.1(b))		☐ Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

December 2 through December 17, 2008

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

☐ Effective 30th day after filing with Secretary of State	☒ Effective on filing with Secretary of State	☐ §100 Changes Without Regulatory Effect	☐ Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) (SAM: §6660)	☐ Fair Political Practices Commission	☐ State Fire Marshal
☐ Other (Specify) _____		

7. CONTACT PERSON Sandra Ortega, Manager	TELEPHONE NUMBER (916) 657-2586	FAX NUMBER (Optional) (916) 654-3286	E-MAIL ADDRESS (Optional) sortega@dss.ca.gov
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8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

[Signature]

DATE

12/23/08

TYPED NAME AND TITLE OF SIGNATORY

Robert L. Garcia, Chief Deputy Director

INSTRUCTIONS FOR PUBLICATION OF NOTICE AND SUBMISSION OF REGULATIONS

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B).

CHANGES WITHOUT REGULATORY EFFECT

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

ABBREVIATIONS

Cal. Code Regs. - California Code of Regulations
Gov. Code - Government Code
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

Amend Section 42-721 to read:

Post-Hearing: Amend Section 42-721.481 to read:

42-721 NONCOMPLIANCE WITH PROGRAM REQUIREMENTS

42-721

.2 Compliance Process (Continued)

.23 (Continued)

.232 The written notice of action shall contain the following additional information:
(Continued)

(j) The steps the individual must take to have aid restored. (Continued)

.4 Sanctions

.41 (Continued)

.412 (Continued)

.43 Financial sanctions for failing or refusing to comply with program requirements without good cause shall result in a reduction in the family's grant by removing the noncomplying family member from the assistance unit until the noncomplying individual performs the activity(ies) he or she previously refused to perform; or if the activity that the noncomplying individual originally failed to perform is no longer available or appropriate, the county must specify another appropriate activity for the individual to perform. (Continued)

.45 In a two-parent assistance unit whose basis for deprivation is unemployment, the sanctioned parent shall be removed from the assistance unit. (Continued)

.454 A spouse or second parent who chooses to participate to avoid the noncomplying parent's sanction, and subsequently ceases participation without good cause and fails or refuses to agree to or fulfill the terms of a compliance plan without good cause, shall be removed from the assistance unit in accordance with Section 42-721.43. (Continued)

.48 The CWD shall restore aid:

.481 On the first day of the month following the date that the individual contacted the county to indicate his or her desire to end the sanction after all of the following conditions are met;

(a) ~~onee-t~~ The activities in accordance with Section 42-721.43 have been successfully completed.;

- (b) ~~if~~ The individual is determined to be in compliance with program requirements, and is otherwise eligible.

If the individual completes the activity after the first of the month following the date of the request to end the sanction, the county shall issue a supplemental payment, retroactive to the first of the month following the date of the request to end the sanction; or (Continued)

.483 (QR) (Continued)

HANDBOOK BEGINS HERE

- (a) Example: An individual who was sanctioned for failing to attend orientation contacts the CWD on July 14 and indicates he wishes to end his sanction. The individual signs his curing plan on July 17, attends orientation on July 23 as required by his curing plan, and cures his sanction. On August 1, if the individual is otherwise eligible, his cash aid is restored.
- (b) Example: An individual contacts the CWD on July 14 and indicates she wishes to end her sanction. The individual signs her curing plan on July 17, which specifies that she must participate in two weeks of job search/job club beginning on July 23. She successfully completes job search/job club on August 5, and ends her sanction. If the individual is otherwise eligible, her cash aid is restored back to August 1.

HANDBOOK ENDS HERE

.49 The CWD shall grant aid:

- .491 On the first day of the month following the date that the individual contacted the county to indicate his or her desire to end the sanction, once the activities in accordance with Section 42-721.43 have been successfully completed, if the individual applies for aid, is determined to be in compliance with program requirements, and is otherwise eligible.

HANDBOOK BEGINS HERE

- (a) Example: An individual who was sanctioned and left aid with his family after failing to participate in vocational education contacts the CWD on July 1 to reapply for aid. His family is determined eligible for aid on July 5 and aid is granted to the family as of July 5; before aid can be granted for the sanctioned individual he must cure his sanction. The individual signs his curing plan on July 5, participates in a vocational education program for 30 days, and successfully cures his sanction on August 3. If the individual is otherwise eligible, his cash aid is granted

back to August 1 as a county-initiated mid-quarter change pursuant to Section 44-316.331(c)(QR).

HANDBOOK ENDS HERE

.5 State Hearing and Formal Grievance (Continued)

Authority cited: Sections 10553, 10554, and 10604 Welfare and Institutions Code.

Reference: Sections 11203, 11265.2, 11320, 11320.31, 11322.9, 11324.8(d), 11327.4, 11327.5(a) through (e), 11327.6, 11327.8, 11327.9, 11328.2, 11333.7, 11454, and 16501.1(d), (e), (f), and (g), Welfare and Institutions Code.

Amend Section 42-780 to read:

42-780 COUNTY PLANS FOR CALWORKS

42-780

.1 (Continued)

.6 A county shall submit an addendum to the county plan once every three years.

Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10530, 10531, 10532(b)(1), 10534, 10542, 10553.2(d), 11321.6, 11322.7, 11322.9, 11323.2, 11325.7, 11325.8, 11327.8, 11329.4 and 13280, Welfare and Institutions Code; and 42 U.S.C. 602(a)(5) and 612.

Amend Section 44-303 to read:

Post Hearing: Amend Section 44-303.34 to read:

44-303 AID PAYMENTS-DEFINED

44-303

Aid payments are: (Continued)

.3 Vendor Payments, i.e., payments made directly to a person or agency supplying goods or services to the recipient or family. Vendor payments are applicable: (Continued)

.34 In CalWORKs cases in which a parent or caretaker relative is in ~~has been subject to~~ sanction status for at least three consecutive months (see Section 44-307.12). A county shall establish when to begin to issue vouchers or vendor payments for at least rent and utilities after this three-month period in sanction status. This timeframe shall be included in a county's written policies and procedures.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11251.3, 11327.5(d), 11453.2 and 17012.5 Welfare and Institutions Code; Family Support Act of 1988, Public Law (PL) 100-485, October 13, 1988 and California Department of Health Services Manual Letter 77-1.

Amend Section 44-307 to read:

Post Hearing: Amend Section 44-307.12 to read:

44-307 VOUCHER/VENDOR PAYMENTS

44-307

.1 Voucher/Vendor Payments (Continued)

.12 Sanction

Any time a parent or caretaker relative is in ~~has been subject to~~ sanction status for at least three consecutive months. A county shall establish when to begin to issue vouchers or vendor payments for at least rent and utilities after this three-month period in sanction status. This timeframe shall be included in a county's written policies and procedures. The vouchers or vendor payments shall continue until the parent or caretaker relative is no longer subject to sanction.
(Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11251.3, 11320.15, 11327.5(d), 11450.13, 11453.2 and 17012.5
Welfare and Institutions Code; and Section 1942, Civil Code.

Amend Section 44-318 to read:

Post Hearing: Amend Section 44-318.13(QR) to read:

44-318 BEGINNING DATE OF AID (BDA) FOR PERSONS
BEING ADDED TO THE AU

44-318

.1 Beginning Date of Aid

The BDA shall be: (Continued)

.13 Sanction/
Noncooperating Persons

(Continued)

(QR)

The first of the month following the date the person contacted the county to indicate his or her desire to end the sanction after all of the following conditions are met: ~~meets the requirement which caused that person to be excluded from the AU, after all conditions of eligibility have been met (see Section 44-316.331 (c) (QR)).~~

(a) All conditions of eligibility have been met (see Section 44-316.331 (c) (QR)); and

(b) The activities in accordance with Section 42-721.43 have been successfully completed. (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11056, 11265.1, 11265.2, 11265.3, and 11327.5(d) Welfare and Institutions Code; 45 CFR 233.10 and .20 (a)(13); Federal Register, Vol. 57, No. 131; and SSA-AT-86-01.

Amend Section 82-812 to read:

82-812 TEMPORARY ABSENCE (Continued)

82-812

.6 Exceptions to One Full Calendar
Month Time Limitation (Continued)

.68

Children Receiving Out-of-Home Care
(Continued)

.687

(Continued)

(e)

Pursuant to Section 42-711.512 and Section 42-721.413, reunification parents who are in a WTW sanction are not precluded from receiving CalWORKs reunification services.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11203, 11265.1, 11269, 11323.4, 11327.5(d), and 11454 Welfare and Institutions Code; and 42 USC 608 (a)(10).

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2009-0626-01EE
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FILED

For use by Office of Administrative Law (OAL) only

In the office of the Secretary of State
of the State of California**JUL 06 2009**

2009 JUN 26 PM 1:24

OFFICE OF
ADMINISTRATIVE LAW

At 1:27 O'Clock P. M.
DEBRA BOWEN, Secretary of State
By [Signature]
Deputy Secretary of State

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

California Department of Social Services

AGENCY FILE NUMBER (if any)

ORD #1008-07

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed ☐ Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) SB 39, Child Fatality Reporting and Disclosure Requirements	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2008-1216-03E
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT	31-003 and 31-502
	AMEND	31-002
	REPEAL	
TITLE(S) MPP		

3. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code §11346)	☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	☒ Emergency Readopt (Gov. Code, §11346.1(h))	☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	☐ File & Print	☐ Print Only
☐ Emergency (Gov. Code, §11346.1(b))	☐ Other (Specify) _____		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

☐ Effective 30th day after filing with Secretary of State	☒ Effective on filing with Secretary of State	☐ \$100 Changes Without Regulatory Effect	☐ Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) (SAM §6660)	☐ Fair Political Practices Commission	☐ State Fire Marshal
☐ Other (Specify) _____		

7. CONTACT PERSON Sandra Ortega, Chief, ORD	TELEPHONE NUMBER 916-657-2586	FAX NUMBER (Optional) 916-654-3286	E-MAIL ADDRESS (Optional)
--	----------------------------------	---------------------------------------	---------------------------

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

ROBERT L. GARCIA, Chief Deputy Director

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUL 06 2009

Office of Administrative Law

Amend Section 31-002 to read:

31-002 DEFINITIONS (Continued)

31-002

(c) (Continued)

- (5) "Case Record" means an electronic and/or written record for each child receiving child welfare services beyond including, but not limited to, the emergency response protocol, that The Case Record contains all of the documentation requirements specified by the Division 31 regulations, and includes court documents maintained by the child welfare services agency, as defined in Rule 5.552 of the California Rules of Court. (Continued)

(g) (Continued)

- (3) "Guardian" means a person appointed by the superior court pursuant to the provisions of Probate Code Section 1514, or appointed by the juvenile court pursuant to the provisions of Welfare and Institutions Code Section 366.25 ~~or~~ .26. (Continued)

(r) (Continued)

- (7) "Risk assessment" means documented information collected from the child(ren), caregiver, and/or collateral support persons that evaluates the protective capacity of the caregiver, any likelihood for future maltreatment, the age and vulnerability of a child or children, while including objective values of different cultures that will not result in a disparity of treatment services provided to all families receiving child welfare services.

- (s) (1) "Safety assessment" means documented information collected from the child(ren), caregiver, and/or collateral support persons that evaluates and determines whether there are present dangers and/or imminent threats of serious harm/maltreatment to a child or children, while including objective values of different cultures that will not result in a disparity of treatment services provided to all families receiving child welfare services.

(12) (Continued)

(23) (Continued)

(34) (Continued)

(45) (Continued)

(56) (Continued)

(67) (Continued)

(78) (Continued)

(89) (Continued)

(910) (Continued)

Authority Cited: Sections 10553, and 10554, and 10850.4, Welfare and Institutions Code and Assembly Bill 1695, Section 21.

Reference: Sections 300, 300(c), 300(e), 306(b), 309(d), 319, 319(f), 727, 11402, and 16507.5(b) (as amended by AB 1695, Chapter 653, Statutes of 2001), 361, 361.2, 361.2(h), 361.3, 361.3(a)(8), 361.4(a)(3)(A), (b), and (c), 362.7, 366.22, 366.3(e)(4) and (e)(8), 391, 636.1(c), 706.6(o), 727, 727.2, 4094, 4094.5, 4094.6, 4094.7, 5585.58, 5600.3, 10553, 10554, 10850.4, 11100, 11105, 11108.15, 11155.5, 11400(a), 11402, 11404, 11467.1, 16001.5, 16001.9, 16010, 16012, and 16501, 16501(a)(3), 16501.1(e)(9), 16501.1(f)(7), 16503, 16504, 16506, 16506(c), 16507.5(b), 16516.5, 16520, 16521, 17736, and 18951(d), Welfare and Institutions Code; Section 11165 et seq., Penal Code; Section 265, Civil Code; 42 U.S.C. Section 675; Sections 1502, 1502(a)(8), 1505.2 (as added by Assembly Bill 1544, Chapter 793, Statutes of 1997), 1522, 1522.06, and 1530.8, Health and Safety Code; 45 CFR 233.120; 42 U.S.C. 675(5); Sections 7002, 7901, 7911, 7911.1, and 7912, Family Code; and Public Law 105-89 (Adoption and Safe Families Act of 1977), and Rule 5.552 of the California Rules of Court.

Adopt Section 31-003 to read:

31-003 DEFINITIONS - FORMS

31-003

(a) (Reserved)

(b) (Reserved)

(c) (Reserved)

(d) (Reserved)

(e) (Reserved)

(f) (Reserved)

(g) (Reserved)

(h) (Reserved)

(i) (Reserved)

(j) (Reserved)

(k) (Reserved)

(l) (Reserved)

(m) (Reserved)

(n) (Reserved)

(o) (Reserved)

(p) (Reserved)

(q) (Reserved)

(r) (Reserved)

(s) (1) SOC 826 (Rev. 11/08) Child Fatality/Near Fatality County Statement of Findings and Information.

(t) (Reserved)

(u) (Reserved)

(v) (Reserved)

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

Authority Cited: Sections 10553, 10554, and 10850.4, Welfare and Institutions Code.

Reference: Sections 827 and 10850.4, Welfare and Institutions Code and 42 USC 5106.

Adopt Section 31-502 to read:

31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502

- .1 The county shall submit a report to the Department for all child fatalities when there is reasonable suspicion, as defined in Penal Code Section 11166(a)(1), that a child fatality was caused by abuse and/or neglect.
- .11 When the county learns that a child fatality has occurred and there is reasonable suspicion that the fatality was caused by abuse and/or neglect, the county shall notify the Department by submitting the Child Fatality/Near Fatality County Statement of Findings and Information (SOC 826) form within five (5) business days.

HANDBOOK BEGINS HERE

- .111 The county may "learn" of the fatality in ways that may include, but not be limited to, a formal report, emergency response referral, a cross report from a law enforcement agency or a private party. Once this information is learned the standard condition of reasonable suspicion is applied.
- (a) Penal Code Section 11166(a)(1) defines "reasonable suspicion" and states in pertinent part: "'reasonable suspicion' for the purposes of this section means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect.

HANDBOOK ENDS HERE

- .112 Once information regarding a child fatality is learned and there is reasonable suspicion that the cause was due to abuse and/or neglect, the county shall generate a referral within the Child Welfare Services/Case Management System, and the county shall respond to the referral as described in Section 31-101.
- (a) If the county finds an allegation to be inconclusive or substantiated, they shall complete the reporting requirements as described in Section 31-501.
- .113 The following information shall be reported to the Department, using the SOC 826 form:
- (a) The age and gender of the child.
- (b) The date of death.
- (c) Residence of child at the time of death.

(1) Foster care placement as defined by Section 31-002(f)(8).

(2) Parent or Guardian as defined by Sections 31-002(p)(1) and (g)(3).

(d) Whether an investigation is being conducted by a law enforcement agency and/or the county child welfare agency.

.2 The county shall report additional information to the Department, using the SOC 826 form, upon the completion of the child abuse and/or neglect investigation of the deceased child. The subsequent report shall include the information listed in Section 31-502.113 as well as the following:

.21 Whether the child fatality was or was not determined to be a result of abuse and/or neglect.

.22 The agency that made the determination whether the child fatality was or was not the result of abuse and/or neglect:

.221 CWS or Probation

A "determination" of abuse and/or neglect by CWS or Probation is the substantiation of abuse and/or neglect allegations as the direct cause of the fatality.

.222 Law Enforcement

A law enforcement investigation concludes that the child's death was a direct result of abuse and/or neglect.

.223 Coroner/Medical Examiner

A coroner/medical examiner concludes that the child's death was a direct result of abuse and/or neglect.

HANDBOOK BEGINS HERE

.224 Penal Code 11165.12(b) defines a "substantiated" report as one "that is determined by the investigator who conducted the investigation to constitute child abuse or neglect, as defined in Section 11165.6, based upon evidence that makes it more likely than not that child abuse or neglect, as defined, occurred."

HANDBOOK ENDS HERE

.23 If the child fatality is substantiated as a result of abuse and/or neglect, pursuant to Section 31-502.224, the findings and information related to the child fatality shall be included in the subsequent report to the Department.

.3 Upon public request, whether written, verbal, or via email or facsimile, the county shall disclose information related to a child fatality to the requesting party in the following circumstances:

.31 When there is reasonable suspicion that the fatality was a result of abuse and/or neglect, the county shall provide the information as listed in Section 31-502.113 to the requesting party within five (5) business days of receiving the request.

.32 Upon receiving the public request for information pursuant to Sections 31-502.33 and/or .34, the county shall notify counsel for any child directly or indirectly related to the deceased child's case record.

.33 When the agency, pursuant to Section 31-502.22, makes the determination that the child fatality was a result of abuse and/or neglect; the child resided with his/her parent or guardian, as defined by Sections 31-002(g)(3) and (p)(1), and the abuse and/or neglect was inflicted by the parent or guardian, the county shall release additional documents pertinent to that parent or guardian.

.331 The following information, subject to redactions specified in Section 31-502.4, shall also be released by the county upon public request within ten (10) business days of receiving the request or the determination of the investigation, whichever is later:

(a) All information listed in Section 31-502.113.

(b) Any emergency response referral information, completed by the county, which pertains to the abuse and/or neglect that caused the death of the child.

(c) Any previous referrals of abuse or neglect specific to the deceased child that were determined to be inconclusive or substantiated while living with that parent or guardian.

(d) Any cross reports relating to the deceased child that were completed by the county and sent to a law enforcement agency.

(e) Any copies of police reports about the person against whom the child abuse and/or neglect was substantiated.

(f) Any health care records, excluding mental health records, related to the child's death and previous injuries reflective of a pattern of abuse and/or neglect.

(g) Any risk and safety assessments, as defined by Sections 31-002(r)(7) and 31-002(s)(1), relating to the deceased child that were completed by the county.

.34 When the agency, pursuant to Section 31-502.22, makes the determination that the child fatality was a result of abuse and/or neglect; the child resided in foster care, and the abuse and/or neglect was inflicted by the foster parent(s), the county shall release additional documents pertinent to the foster parent(s).

.341 The following documents, subject to redactions specified in Section 31-502.4, shall also be released by the county to the requesting party within ten (10) business days of the request or the final determination of the investigation, whichever is later:

- (a) All of the information listed in Section 31-502.113.
- (b) The emergency response referral information, completed by the county, which pertains to the abuse and/or neglect that caused the death of the child.
- (c) Any previous referrals of abuse or neglect specific to the deceased child that were determined to be inconclusive or substantiated while living with the foster parent(s).
- (d) Any cross reports relating to the deceased child that were completed by the county and sent to a law enforcement agency pertinent to the foster parent(s).
- (e) Any copies of police reports about the person against whom the child abuse and/or neglect was substantiated.
- (f) Any health care records, excluding mental health records, related to the child's death and previous injuries reflective of a pattern of abuse and/or neglect inflicted by the foster parent(s).
- (g) Any risk and safety assessments, as defined by Sections 31-002(r)(7) and (s)(1), relating to the deceased child that were completed by the county pertinent to the foster parent(s).
- (h) Records pertaining to the foster parent's license and type of license or licenses held, if in the case record.

- (i) Records pertaining to the approval of the foster family home of the relative or non-related extended family member, including a caregiver assessment, and health and safety inspection of the home, if in the case record.
- (j) All documented licensing violations, including plans of correction, if in the case record.
- (k) Records of any training completed by the foster parent(s), if in the case record.
- (l) If licensing records pertaining to the foster parent(s) are not contained in the child's case record, the county shall release the documents and information specified in Sections 31-502.341(a) through (k) that are available within the case record and direct the requesting party to the appropriate licensing agency for any additional information or documents. For licensing/approval files maintained by the county, the county shall forward that part of the request to the appropriate county custodian of records.

.35 When a child fatality has occurred as a result of abuse and/or neglect by a non-residential licensed child care provider, the county shall direct any public request to the appropriate licensing department or agency that has jurisdiction over the facility.

.4 The county shall redact information that is privileged, confidential, or not subject to disclosure prior to public release.

.41 After consultation with law enforcement or the District Attorney, if the release of specific information would jeopardize a criminal investigation or proceeding, that information shall be redacted prior to release.

.42 If information for a child, including the deceased child or any sibling of the deceased child, as listed in Sections 31-502.331(a) through (g) and Sections 31-502.341(a) through (k), may be detrimental to the well-being of another child, counsel for that child may petition the juvenile court to prevent the release of any document or part of a document requested pursuant to Welfare and Institutions Code Section 827.

.421 To comply with federal law, 42 USC 5106, the county shall release the SOC 826 form, whether or not a petition has been filed in the juvenile court.

.422 Only information or documents that may pose potential detriment to a child who is directly or indirectly connected to the case, as found by the juvenile court, shall be redacted.

.43 Information that shall be redacted includes:

.431 Names, except the name of a county or state department or agency shall not be redacted.

- .432 Addresses, except the address of a county or state department or agency shall not be redacted.
- .433 Telephone numbers, except the public telephone number of a county or state department or agency shall not be redacted.
- .434 Ethnicity.
- .435 Religion.
- .436 Social Security numbers or referral/case identifiers.
- .437 Any other identifying information of any person or institution, other than the county or state department or agency information indicated in Sections 31-502.431, .432, and .433.
- .44 The county shall adhere to all laws that govern confidentiality of the release of information.
- .441 The following are examples of state laws and rules and are not intended to be an exhaustive list of such laws and rules.
- (a) California Constitution: Article 1, Section 1
 - (b) Civil Code Sections 56.05 through 56.36
 - (c) Evidence Code Sections 990, 1010, 1560
 - (d) Family Code Sections 1818, 3111, 3118, 7643, 7805, 9200, 3041.5, 17212, and 17505
 - (e) Government Code: Public Records Act 6250-6276.48
 - (f) Health and Safety Code Section 255.7
 - (g) Penal Code Sections 293.5, 841.5, 851.8, 851.85, 1054.2, 1191.15, 1203.3(c), 4011.6, 11081, 11105, 11167.5, and 13300.
 - (h) Revenue and Tax Code Sections 19542 and 19548
 - (i) Welfare and Institutions Code Sections 300.2, 345, 676, 827, 828, 5328, 10850, and 11478.1
 - (j) Rules of Court, 3.60, 5.552, 7.1001(c), and 7.1050(c)

.442 The following are examples of federal laws and are not intended to be an exhaustive list of such laws.

(a) 5 USC Section 552a

(b) 15 USC Section 1681(b)

(c) 20 USC Sections 1232(g), 1417(c), and 1418(a)(8)

(d) 26 USC Section 6103

(e) 42 USC Sections 405, 671(a)(8), 671(a)(20)(c)(iii), 675(1), 675(5)(D), and 5106(a) and (b)

(f) 45 CFR 160 and 164, Health Insurance Portability and Accountability Act.

(g) 45 CFR Sections 205.50, 302.34, 307.13, 1340.14(i), and 1340.20

.45 When a public request is made for documents other than those listed in Sections 31-502.331(a) through (g) and Sections 31-502.341(a) through (l), the county shall only release this information upon an order from the juvenile court pursuant to Welfare and Institutions Code Section 827.

.46 All case records shall be retained as described in Sections 31-075.2 through .21. The county is not required to retain case record documents beyond any date otherwise required by law.

.47 The county is not required to obtain documents that are not within the child's case record as defined in MPP Section 31-002(c)(5).

Authority Cited: Sections 10553, 10554, and 10850.4, Welfare and Institutions Code.

Reference: Penal Code Sections 11165.12, 11166, and 11169; 42 USC 5106; 45 CFR 1340.15(b), and Sections 827 and 10850.4, Welfare and Institutions Code.

**CHILD FATALITY/NEAR FATALITY
COUNTY STATEMENT OF FINDINGS AND INFORMATION****INSTRUCTIONS:**

For child fatality suspected to be as a result of abuse or neglect, complete part A and submit to the California Department of Social Services (CDSS) within 5 business days of learning of incident. Upon final determination of investigation of child fatality, complete parts A and B and send update to the CDSS within 10 business days of notification of final determination from investigating agency.

For child near fatality determined to be as a result of abuse or neglect, complete parts A and C and submit to the CDSS within 10 business days of notification of final determination from investigating agency.

PART A - ALWAYS COMPLETE THIS INFORMATION FOR CDSS SUBMISSION.☐ Original Notification

Date form completed _____

☐ Updated Notification

Date form updated _____

Note: Redact information in this box prior to the public release of this document.

CWS/CMS 19-DIGIT REFERRAL # OF CHILD VICTIM:

COUNTY CONTACT AND PHONE NUMBER (INDIVIDUAL THAT CDSS WOULD CONTACT FOR ADDITIONAL INFORMATION):

COUNTY WHERE INCIDENT OCCURRED:

CHILD'S AGE

CHILD'S GENDER:

☐ MALE☐ FEMALE

DATE OF FATALITY/NEAR FATALITY (IF KNOWN):

RESIDENCE OF THE CHILD AT THE TIME OF THE FATALITY/NEAR FATALITY:

☐ Home of parent/legal guardian☐ Foster Care/Out-of-Home Care

INVESTIGATION CONDUCTED BY:

☐ Law Enforcement☐ CWS/Probation**PART B - CHILD FATALITY FINDINGS - CONCLUSION OF INVESTIGATING AGENCY**

DETERMINATION MADE BY:

☐ Coroner/Medical Examiner☐ Law Enforcement☐ CWS/Probation☐ Fatality **NOT** a result of child abuse/neglect. IF CHECKED, STOP HERE☐ Fatality as a result of Abuse or Neglect

FINDING OF CHILD FATALITY DUE TO (CHECK ALL THAT APPLY):

☐ Crime☐ Suicide☐ Non-Accidental☐ Undetermined☐ Other _____**PART C - CHILD NEAR FATALITY FINDINGS DETERMINED TO BE A RESULT OF ABUSE/NEGLECT**

DETERMINATION MADE BY:

☐ Physician☐ Law Enforcement☐ CWS/Probation**DO NOT INCLUDE A NARRATIVE; CHECK THE APPROPRIATE BOXES ABOVE**

**Please fax this form to: Children's Services Operations Bureau,
Attention: Bureau Chief at (916) 651-8144.**

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

ORIGINAL

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2009-0619-07E
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For use by Office of Administrative Law (OAL) only

2009 JUN 19 PM 12:18

OFFICE OF
ADMINISTRATIVE LAW

FILED

In the office of the Secretary of State
of the State of California

JUN 29 2009

At **3:15** O'clock **P** M.
DEBRA BOWEN, Secretary of State
By *[Signature]*
Deputy Secretary of State

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

California Department of Social Services

AGENCY FILE NUMBER (if any)

ORD #0309-03

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Title IV-E Foster Care Overpayment Regulations	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)
ADOPT
AMEND
Sections 11-425, 22-001, 22-003, 22-009, 45-302, 45-303, 45-304, 45-305, and 45-306
REPEAL
TITLE(S) MPP

3. TYPE OF FILING			
☐ Regular Rulemaking (Gov. Code §11346)	☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	☐ Emergency Readopt (Gov. Code, §11346.1(h))	☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	☐ File & Print	☐ Print Only
☒ Emergency (Gov. Code, §11346.1(b))		☐ Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

☐ Effective 30th day after filing with Secretary of State	☐ Effective on filing with Secretary of State	☐ §100 Changes Without Regulatory Effect	☒ Effective other (Specify) July 1, 2009
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) (SAM §6660)	☐ Fair Political Practices Commission	☐ State Fire Marshal
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☒ Other (Specify) **County welfare directors Association**

7. CONTACT PERSON Sandra Ortega, Manager, Office of Regulations Dev.	TELEPHONE NUMBER (916) 657-2586	FAX NUMBER (Optional) (916) 654-3286	E-MAIL ADDRESS (Optional) sortega@dss.ca.gov
---	------------------------------------	---	---

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>[Signature]</i>	DATE 6-15-09
TYPED NAME AND TITLE OF SIGNATORY John A. Wagner, Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUN 29 2009

Office of Administrative Law

*correction made pursuant to agency authorization.
P# 6/29/09

Amend Section 11-425.122 to read:

11-425 RESPONSIBILITIES OF COUNTY WELFARE DEPARTMENTS

11-425

- .1 The county welfare and probation departments' responsibilities shall include, but not be limited to, the following: (Continued)
- .12 Recommending the establishment of a new program by a new or existing provider, or a program change which is either more than one RCL greater than the original RCL determination or a program change to RCL 13 or 14. (See Sections 11-402.41, .42, and .43). The recommendation is to include: (Continued)
- .122 Provider is capable of effectively and efficiently operating the program.

(a) The county shall use reasonable efforts to determine whether a new or existing Board of Directors member, Executive Director, licensee and Program Administrator were employed in similar capacities in a corporation that has not fully repaid any overpayment of AFDC funds, or was the respondent in a community care license revocation accusation within the past three years. Reasonable efforts shall include contacting the department, Foster Care Rates and Audits Bureau, and the Community Care Licensing Division. If the county determines that one or more of these persons were employed in similar capacities in such a corporation, the county cannot determine that the provider is capable of effective and efficient program operation, unless the county finds that compelling reasons exist to believe that the person or persons so identified are now capable of effective and efficient program operation, and shall include those reasons in the recommendation. (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code, and Chapter 1294, Statutes of 1989, Section 23; and Senate Bill 84, Chapter 177, Statutes of 2007, Section 32.

Reference: Sections 11462(g)(2), 11462(i)(2), and 11462.01(b), and 11466.23, Welfare and Institutions Code.

Amend Section 22-001(c)(2) to read:

22-001 DEFINITIONS

22-001

The following definitions shall apply wherever the terms are used throughout Division 22.
(Continued)

(c) (2) Claimant - The person who has requested a state hearing and is or has been any of the following:

(G) ~~Repealed by Manual Letter No. CFC 07-01, effective 1/24/07.~~

A foster care provider, including group homes and foster family agencies, who request a hearing to challenge a county action to recover an overpayment under Sections 45-304, 45-305, and 45-306, except for overpayments requests made by a county pursuant to Section 45-304.124. (Continued)

Authority cited: Sections 10553, 10554 and 10604, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Sections 32 and 33.

Reference: Sections 10051, 10613, 10950, 10963, 11209, 11323.6, ~~and~~ 11323.8, 11466.23, 11466.235, and 11466.24, Welfare and Institutions Code; Sections 6700, 6701, 11425.10, and 11425.60, Government Code; 45 CFR 205.10; 45 CFR 205.10(a)(4)(i)(B); and 45 CFR 255.4(j)(1) and Part 256.

Amend Section 22-003.1 to read:

22-003 RIGHT TO A STATE HEARING

22-003

.1 A state hearing shall be available to a claimant who is dissatisfied with a county action and requests a hearing in the manner set forth below. (Continued)

.15 There is no right to a state hearing regarding overpayments made to foster care providers including group homes and foster family agencies where the claimant entered into a voluntary repayment agreement, or where the county requested voluntary repayment under MPP Section 45-305.231.

Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Sections 32 and 33.

Reference: Sections 10613, 10950, ~~and~~ 11209, 11466.23, 11466.235, and 11466.24, Welfare and Institutions Code; 45 CFR 205.10; 45 CFR 235.112(c)(2); 45 CFR 255.4(j)(1) and 256.4(b); and Madrid v. McMahon (1986) 183 Cal. App. 3rd 151, In Re Jennifer G. (1990) 221 Cal App. 3rd 752 and In Re Moriah T. (1994) 23 Cal. App. 4th 1366.

Amend Section 22-009.1 to read:

22-009 TIME LIMIT ON REQUEST FOR A STATE HEARING

22-009

- .1 The request for a state hearing shall be filed within 90 days after the date of the action or inaction with which the claimant is dissatisfied.
- .11 Except as provided for in Section 45-306.3 If the claimant received an adequate and language-compliant notice of the county action, the request for hearing shall be filed within 90 days after the notice was mailed or given to the claimant. If adequate notice was required but a notice was not provided, or if the notice is not adequate and/or language-compliant, any hearing request (including an otherwise untimely hearing request) shall be deemed to be a timely hearing request. (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Sections 32 and 33.

Reference: Sections 10950, ~~and~~ 10951, 11466.23, 11466.235, and 11466.24, Welfare and Institutions Code and Morales v. McMahon (1990) 223 Cal App. 3rd 184, 272 Cal. Rptr. 688.

Amend Section 45-302.2 to read:

45-302 PAYMENT (Continued)

45-302

.2 Payment Conditions (Continued)

.23 Child Temporarily Absent

.231 When an AFDC-FC eligible child is temporarily absent from an eligible facility such as for school, work or training program, hospitalization, visiting, vacationing, emergency circumstances, the county shall have the option of making payment to the eligible facility from which the child is absent in order to meet the child's needs. The payment shall be made to one of the payees listed in Section 45-301.1 or 45-301.2.

(a) A child is determined to be temporarily absent when he/she is absent for no more than 14 days in a calendar month.

(ab) (Continued)

HANDBOOK BEGINS HERE

Section 8.3B, Question #7, Child Welfare Policy Manual limits temporary absences to a period not to exceed 14 days:

"The State may provide a full month's title IV-E foster care maintenance payment to the licensed provider if the brief absence does not exceed 14 days and the child's placement continues with the same provider. Otherwise, the State must prorate its claims if the child is absent from the placement for more than a reasonable brief period."

The Administration for Children and Families, Region IX, has determined that a reasonable brief period is no more than 14 days in a calendar month. Below are some examples provided by Region IX that speaks to the issue of temporary absence.

EXAMPLE #1: The youth is in a foster home placement and unexpectedly runs away from the placement on January 24th. The child returns to the same home 14 days later on February 7th. Could the county provide two full months of a foster care payment to the provider?

Because the child was not absent in January for more than 14 days and was not absent in February for more than 14 days the county could provide two full months of foster care payments to the provider.

EXAMPLE #2: The youth is in a foster home placement and unexpectedly runs away from the placement on January 24th and returns to the same home 18 days later on February 11th. In this scenario could the county pay the provider a full month of IV-E maintenance payment for January?

The county could pay the full months of January AND February since the child was not absent more than 14 days in each month.

EXAMPLE #3: The youth is in a foster home placement and runs away from placement (or is hospitalized) from January 2nd to the 14th and then again from January 20th through 27th. In this scenario could the county pay the provider a full month of IV-E maintenance payment for January?

Because the youth was absent from placement for more than 14 days in the calendar month, the county would have to prorate the maintenance payment to reduce the payment by the number of days exceeding 14 days in the calendar month.

HANDBOOK ENDS HERE

.24 (Continued)

Authority cited: Sections 10553, 10554, and 11209, Welfare and Institutions Code.

Reference: Section 7911.1, Family Code; and Sections 361.21, 366, 727.1, 11017, 11056, 11400(f), 11401, 11402, 11403, 11405, 11269, 11466.24, and 16516.5, Welfare and Institutions Code; Section 472(a)(1), Social Security Act.

Amend Section 45-303 to read:

45-303 PAYMENT DELIVERY

45-303

.1 (Continued)

.2 As a condition of Payment Delivery, the county may require a foster care provider to:

.21 Timely report that a child received care from the provider for the entire month.

.22 Timely report the date the child left the provider's care when the provider did not care for the child for the entire month or the number of days in the month the provider cared for the child when the child leaves and returns after a temporary absence of 15 days or more; and

.23 Provide all relevant verifications upon county request.

.3 Where the county has required a provider to comply with Section 45-303.2, failure by the provider to provide the information required may result in the payment being delayed by no later than 15 days after the information is submitted to the county.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Section 33.

Reference: Section 11466.235, Welfare and Institutions Code.

Amend Section 45-304 to read:

45-304 AFDC-FC OVERPAYMENTS FOR FOSTER FAMILY HOMES, 45-304
~~RELATIVE HOMES, NONRELATIVE EXTENDED FAMILY~~
~~MEMBERS, AND NON-RELATED LEGAL GUARDIANS~~
CARE PROVIDERS - GENERAL

.1 Overpayment Recovery for Foster Care Providers, including but not limited to, Group Homes, Foster Family Agencies, Small Family Homes, Foster Family Homes, Relative Homes, Nonrelative Extended Family Members, and Non-related Legal Guardians

.11 An overpayment is any amount of aid paid which a foster care provider received on behalf of a child to which the provider was not entitled. ~~A provider is not entitled to aid where the provider did not care for the child in his or her home for the period of time for which he or she was paid.~~

.111 Each county must develop and institute a program of internal controls to avoid making overpayments.

(a) The program may include policies and activities conducted prior to the issuance of payment.

(b) As a condition of Payment Delivery, Section 45-303, the county may require a foster care provider to:

(1) Timely report that a child received care from the provider for the entire month.

(2) Timely report the date the child left the provider's care when the provider did not care for the child for the entire month or the number of days in the month the provider cared for the child when the child leaves and returns after a temporary absence of 15 days or more; and

(3) Provide all relevant verifications upon county request.

(c) Where the county has required a provider to comply with Section 45-303.2, failure by the provider to provide the information may result in the payment being delayed by no later than 15 days after the information is submitted to the county.

.112 If the foster care provider reports, or if the county otherwise determines, that the foster child resided in foster care placement for less than the full month, the county shall prorate the payment, unless Section 45-304.123 applies.

.113 An overpayment does not occur when the county exercises the option to make payment to an eligible facility for an absent child, for a period not to exceed 14 days in a calendar month, in accordance with Section 45-302.231.

.12 The county shall take all reasonable steps necessary to promptly ~~correct and collect~~ any ~~assess whether an~~ overpayments ~~that are discovered by the county on or after January 1, 1999~~ has occurred.

.121 Overpayment assessments shall include discovery of the overpayment and documentation of the overpayment.

(a) Discovery of overpayments. The county shall ensure that a program of internal controls exists and operates on an ongoing basis to discover, in a timely manner, payments made to a foster care provider for which that provider was not eligible to receive.

(1) Methods of discovering the existence of payment errors and determining the amount of the payment error shall be implemented and include, but not be limited to: supervisorial review of payments made; reconciliation between social worker or probation officer and eligibility worker information; and a quality assurance system.

(b) Documenting overpayments. The county shall document the amount of the overpayment, the actual dates of the days overpaid, the date of discovery of the overpayment, the aid code for which the overpayment was made, and include a description of the circumstances that resulted in the payment error.

(c) The overpayment is not identified until it has satisfied the requirements in Section 45-304.5.

.122 The county shall demand and collect overpayments from a Foster Family Home, an approved home of a relative or non-relative extended family member, an approved home of a nonrelated legal guardian, Group Homes, Small Family Homes and Foster Family Agencies for any period of time in which the foster child was not cared for in that home, except as provided in Sections 45-304.123 and 45.304.125.

.1243 The county shall not demand collection of overpayments made to a Foster Family Home, an approved home of a relative or non-relative extended family member, or an approved home of a nonrelated legal guardian, where any of the following conditions exist:

(a) The ~~child was temporarily absent from the provider's home and payment was made to the provider to meet the child's needs pursuant to Section 45-302.231;~~

(ba) (Continued)

(eb) (Continued)

(dc) The provider did not have knowledge of, and did not contribute to, the cause of the overpayments of.

(e) ~~The cost of the collection exceeds the amount of the overpayment.~~

.124 For overpayments described in Section 45-304.123, the county may request that the provider voluntarily return an overpayment, provided that the county informs the provider that the provider has no legal or other obligation to return the overpayment, and that failure to return the overpayment will not result in any adverse action against the provider and the child/children in the home.

.125 The county shall not pursue collection of overpayments made to an overpaid foster care provider where the cost of the collection exceeds the amount of the overpayment.

(e)(1)

(a) Costs which the county shall consider when determining the cost effectiveness to collect are total administrative and personnel costs, legal filing fees, investigative costs, and any other costs which are applicable.

(b) The county shall have a written debt write-off policy approved by the county Board of Supervisors covering situations including, but not limited to:

(1) Where the debtor cannot be located.

(2) Where the debtor is unable to pay.

(3) Where the costs of further overpayment recovery actions will exceed estimated recovery amounts.

(4) An amount not to exceed \$100.

(c) The county shall maintain adequate documentation supporting its decision to write off an overpayment. Adequate documentation shall include, but not be limited to:

(1) A description of all actions, including the dates of those actions that have been taken to recover the overpayment, and the results from those actions.

- (2) A description of reasonable steps that could be taken in the future to continue recovery efforts, unless it has been determined and documented that the cost of recovery exceeds the collectible amount.
- (3) The costs and benefits of engaging in these further collection actions.
- (4) The basis for the decision to pursue/not pursue collection of the overpayment.
- (5) The date when recovery actions were terminated on the overpayment.
- (6) If Section 45-304.125(b)(4) applies to an overpayment, then adequate documentation shall consist of documenting the amount of the overpayment.

.126 The county shall not demand collection of overpayments made to non profit corporations operating group homes or foster family agencies that are no longer in business or licensed by the department.

- (a) The county shall not initiate a financial or fiscal audit, or any activity that could lead to the establishment of an overpayment of a group home or foster family agency that is no longer in business or licensed by the department, without prior written approval of the department. This provision does not apply to law enforcement activities under the Penal Code.
- (b) The county shall not take any action in furtherance of an existing financial or fiscal audit, or any activity that could lead to the establishment of an overpayment of a group home or a foster family agency that is no longer in business or licensed by the department, without prior written approval of the department. This provision does not apply to law enforcement activities under the Penal Code.

.1227 Nothing in Sections 45-304.1242, .123 or .124 prevents counties from collecting an overpayment which results from the payment of aid paid pending.

.2 Investigations of Overpayments

- .21 When information indicates that an overpayment may have occurred, the county shall take the following actions: (Continued)

~~.212 If an overpayment is discovered, determine whether any of the factors in Section 45-304.121 preclude overpayment recovery. Calculate the amount of the overpayment;~~

~~.213 If none of the factors in Section 45-304.121 preclude recovery, calculate the overpayment; Determine whether any of the factors in Section 45-304.123 or .124 preclude overpayment recovery. If none of the factors in Section 45-304.123 or .124 preclude recovery then:~~

~~.214 (a) Determine from whom the overpayment may be recovered (see Section 45-304.3);~~

~~(b) Comply with the requirements in Section 45-305.~~

~~(c) The county may seek voluntary collection consistent with Section 45-305.231.~~

~~.214 If after performing the actions required under Section 45-305, full recovery of the overpayment is not achieved, then the county shall determine whether to pursue collection of the overpayment as specified in Section 45-304.125.~~

~~.215 Determine the appropriate recovery method (see Section 45-305) and the amount to be recovered.~~

.3 Overpayment Recoupment (Continued)

.32 (Continued)

HANDBOOK BEGINS HERE

~~.321 Section 45-304.32 does not prohibit those overpayment collection procedures detailed in Section 45-305.22 or .23.~~

HANDBOOK ENDS HERE

.33 For overpayments made to group homes and foster family agencies, an offset to the administrative portion of any subsequent payments shall be used to recover the amount of the overpayment. See Section 45-305 for offset methodology.

.4 Limitations on Recoupment of Overpayments

.41 A county shall not collect interest on the repayment of an overpayment unless Section 45-305.33 applies.

.42 ~~A county shall not notify a provider or institute~~ initiate overpayment recovery procedures where it has been more than a year since the initial determination of an overpayment after one year from the date the county discovers the overpayment.

.421 The county shall continue to recover an overpayment after one year from the date the county discovers the overpayment where the overpayment recovery was initiated within one year of the date the county discovered the overpayment.

HANDBOOK BEGINS HERE

~~.421 The initial determination~~ discovery of the overpayment may occur more than a year after the actual overpayment occurred and recovery shall be sought unless prohibited by Section 45-304.123. The date of ~~determination~~ discovery is controlling, not the date of the actual overpayment.

HANDBOOK ENDS HERE

.422 This section does not prohibit the county from entering into voluntary or involuntary repayment schedules which last longer than a year from the date of the initial ~~determination~~ discovery of the overpayment.

.423 (Continued)

.5 County Identification and Remittance of Overpayments (See Section 45-304.12)

.51 If the overpaid provider does not request a review of the county overpayment determination, the overpayment shall be identified two (2) days after the date the overpaid provider's time frame to request a review has elapsed.

.52 If the overpaid provider requests review of the county's overpayment determination (under Section 45-306), the date the overpayment is identified shall be the date the overpaid provider exhausts administrative due process (under Section 45-306).

.53 The county shall, no later than 20 calendar days after the end of the month in which the overpayment was identified, make an aid claim adjustment in an amount equal to 60 percent of the federal share of the overpayment amount for all overpayments identified other than overpayments specified in Sections 45-304.122, .123 and .124.

.54 The county shall not be required to remit the federal share of any overpayment that is uncollectible pursuant to statute or court order, as specified below:

.541 Overpayments which are uncollectible under Section 45-304.123.

.542 Overpayments which are uncollectible by operation of Section 45-304.125(b)(4).

- .543 Overpayments which are uncollectible under Section 45-304.125, provided that the county maintains adequate documentation as described in Section 45-304.125(c).
- .544 Overpayments which are uncollectible under Section 45-304.126, provided that the county complies with Section 45-304.126(a) and (b).
- .55 The county shall report to the department all identified legally uncollectible overpayments and uncollected overpayments due to operation of Sections 45-304.123, .124 and .125 on a monthly basis.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Sections 32 and 33.

Reference: Sections 11400, 11466.23, 11466.235, and 11466.24, Welfare and Institutions Code; Section 338 Code of Civil Procedure; Section 472(a)(1), Social Security Act.

Amend Section 44-305 to read:

45-305 COLLECTIBLE AFDC-FC OVERPAYMENTS FOR FOSTER FAMILY HOMES, RELATIVE HOMES, AND NON-RELATED LEGAL GUARDIANS - CARE PROVIDERS; METHODS OF OVERPAYMENT RECOVERY 45-305

- .1 Using ~~an appropriate county~~ the Statewide developed Notice of Action form NA 1261 (6/09), which is incorporated by reference, the county shall inform the provider of the overpayment and inform the provider that he or she is required to repay the overpayment. This form shall not be used in connection with an overpayment that the provider has no legal obligation to repay. The Statewide developed Notice of Action form NA 1261 shall also notify the provider ~~that the provider can either voluntarily repay the overpayment or that an involuntary overpayment collection procedure will be instituted against the provider. of:~~

 - .11 The amount of the overpayment calculated by month;
 - .12 The date or dates the overpayment was made, and the date the overpayment was discovered by the county;
 - .13 The program in which the overpayment was made, and the reason or cause for the overpayment;
 - .14 Voluntary Repayment Options and Procedures, including voluntary grant offset;
 - .15 Involuntary Repayment procedures and related consequences if voluntary repayment is not agreed to or entered into;
 - .16 The provider's right and time frame to request an informal hearing pursuant to MPP Section 45-306; and
 - .17 The provider's right and time frame to request a State hearing pursuant to MPP Division 20.
- .12 Voluntary Repayment Procedures

 - .21 A provider may voluntarily agree to repay an assessed overpayment in the following order of priority:

 - .211 Voluntary Lump Sum Repayment, MPP Section 45-305.22.
 - .212 Voluntary Repayment Agreement, MPP Section 45-305.23.
 - .213 Voluntary Grant Offset, MPP Section 45-305-24.

.22 Voluntary Lump Sum Repayment

.221 A provider may voluntarily repay an assessed overpayment by making a lump sum payment to the county on or before the date the provider and county have agreed repayment would be received.

.11 23 Voluntary Repayment Agreement

.111 231 If a provider is willing agrees to voluntarily repay the assessed overpayment, the county and the provider shall sign a written repayment agreement with the provider indicating that includes the amount of the overpayment, and delineating the terms of repayment, including the repayment schedule, and the consequences for failure to comply with the terms of the voluntary repayment agreement.

- (a) The agreement shall provide that the provider has sufficient funds to provide adequate care and supervision to all children in care after payment.
- (b) The agreement shall provide that during the period the agreement is in effect it is the responsibility of the provider to timely inform the county of circumstances under which continued payment under the voluntary repayment agreement may result in insufficient funds to provide adequate care and supervision to all children in care.
- (c) Consequences for failure to comply with the terms of the voluntary repayment agreement may include, but are not limited to, restrictions on current and future placements, involuntary repayment, and monetary damages that relate to increased administrative costs incurred by the county due to the provider's non-compliance.
- (d) The agreement shall provide that by agreeing to a voluntary repayment the provider is waiving rights to appeal the overpayment determination and the amount of the overpayment, pursuant to MPP Section 22-003.15.

HANDBOOK BEGINS HERE

MPP Section 22-003.15 provides:

"There is no right to a state hearing regarding overpayments made to foster care providers including group homes and foster family agencies where the claimant entered into a voluntary repayment agreement, or where the county requested voluntary repayment under MPP Section 45-305.231."

HANDBOOK ENDS HERE

- (e) The agreement can be amended only by written consent of both parties.

.124 Voluntary Grant Offset

~~.1241~~ Voluntary grant offset should be explained by the county to those providers where the provider is still providing foster care services to the child for whom the overpayment was assessed. A voluntary grant offset is not available where the provider is only providing services to a different foster child(ren) than the child for whom the overpayment was assessed. If the provider agrees to a voluntary grant offset, the provider and the county shall sign a written voluntary grant offset agreement that includes the amount of the overpayment, the amount to be offset, and the duration of the offset.

- (a) ~~If the recipient offers to repay the overpayment by foregoing a portion of a grant for the child for whom the overpayment was assessed, the county shall obtain, in writing, an agreement to repay. The agreement shall provide that the provider has sufficient funds to provide adequate care and supervision to all children in care after deduction of grant offset.~~
- (b) ~~If the recipient agrees to a grant offset, at no time shall t~~The amount deducted from the child's current grant be no more than 10 percent of the child's total grant.

HANDBOOK BEGINS HERE

Example: (1) Provider Jones has three foster children in her home, Jenny, Johnny, and Joe. An overpayment in the amount of \$400 is assessed for Joe. Joe's monthly payment is \$408. The provider agrees to a voluntary grant offset. \$40 is subtracted form Joe's monthly payment, for a total monthly payment of \$368, for 10 months. Neither Jenny nor Johnny's payments are reduced.

\$408 (monthly grant)
x .10% (maximum)

\$40 (amount to be deducted from monthly grant)

\$408 (monthly grant)
- \$ 40

\$368 (new monthly grant for 10 months)

HANDBOOK ENDS HERE

- (c) Voluntary grant offset may be applied only to the grant of a child for whom the overpayment was assessed. If the ~~recipient~~ provider agrees to a grant offset, at no time shall any amount be deducted from the grant of a child other than the child for whom the overpayment was assessed.

HANDBOOK BEGINS HERE

Example: (1) Provider Jones has three foster children in her home, Jenny, Johnny, and Joe. An overpayment in the amount of \$400 is assessed for Fred who had lived in Provider Jones' house last month. Grant adjustment is not available.

HANDBOOK ENDS HERE

- (d) The offset agreement shall provide that during the period the offset is in effect it is the responsibility of the provider to timely inform the county of circumstances under which continued payment offset may result in insufficient funds to provide adequate care and supervision to all children in care.
- (e) The agreement shall provide that by agreeing to a voluntary grant offset the provider is waiving rights to appeal the overpayment determination and the amount of the overpayment, pursuant to MPP Section 22-003.15.

HANDBOOK BEGINS HERE

MPP Section 22-003.15 provides:

"There is no right to a state hearing regarding overpayments made to foster care providers including group homes and foster family agencies where the claimant entered into a voluntary repayment agreement, or where the county requested voluntary repayment under MPP Section 45-305.231."

HANDBOOK ENDS HERE

- (f) The agreement can be amended only by written consent of both parties.

.23 Involuntary Repayment Procedures

.231 Involuntary repayment procedures shall only be used when a provider has refused to enter a voluntary repayment agreement or has failed to comply with the terms of a voluntary repayment agreement that is based on a legally collectible overpayment.

.232 Grant Adjustments

.2321 Grant adjustments shall only be used where the provider is still providing foster care services to the child for whom the overpayment was assessed. An involuntary grant offset is not available where the provider is only providing services to a different foster child(ren) than the child for whom the overpayment was assessed.

- (a) If the overpayment is to be recovered by grant adjustment, the county shall deduct no more than ~~5~~ 10 percent of the total grant amount each month.

HANDBOOK BEGINS HERE

Example: (1) Provider Jones has three foster children in her home, Jenny, Johnny and Joe. An overpayment in the amount of \$400 is assessed for Joe. Joe's monthly payment is \$408. The provider refuses to enter into a voluntary repayment agreement; the county institutes an involuntary grant adjustment. ~~\$20~~ 40 is subtracted from Joe's monthly payment, for a total monthly payment of ~~\$388~~ 368. For ~~20~~ 10 months. Neither Jenny nor Johnny's payments are reduced.

$$\begin{array}{r} \$408 \text{ (monthly grant)} \\ \times \quad .\del{05} \text{ } 10\% \text{ (maximum)} \\ \hline \$ \del{20} \text{ } 40 \text{ (amount to be deducted from monthly grant)} \\ \\ \$408 \text{ (monthly grant)} \\ - \quad \$ \del{20} \text{ } 40 \\ \hline \$ \del{388} \text{ } 368 \text{ (new monthly grant for } \del{20} \text{ } 10 \text{ months)} \end{array}$$

HANDBOOK ENDS HERE

- (b) At no time shall any amount be deducted from the grant of a child other than the child for whom the overpayment was assessed.

HANDBOOK BEGINS HERE

Example: (1) Provider Jones has three foster children in her home, Jenny, Johnny and Joe. An overpayment in the amount of \$400 is assessed for Fred who had lived in provider Jones' house last month. Grant adjustment is not available.

HANDBOOK ENDS HERE

- (c) The county shall reduce the grant adjustment amount if the county determines that the reduction is necessary to ensure that sufficient funds exist to provide adequate care and supervision to all children in care after the deduction.

- (d) The grant adjustment shall provide that during the period the offset is in effect it is the responsibility of the provider to timely inform the county of circumstances under which continued payment offset may result in insufficient funds to provide adequate care and supervision to all children in care.

.33 Interest on Overpayments

.331 The county shall collect interest on overpayments in circumstances in which the overpaid provider has either failed to enter into a voluntary repayment agreement, or has failed to comply with the terms of a voluntary overpayment agreement, unless:

- (a) An overpayment was made to a foster family home, an approved home of a relative, an approved home of a nonrelative extended family member, or an approved home of a nonrelative legal guardian, for any period of time in which the foster child was not cared for in that home and none of the following conditions existed:

- (1) The child was temporarily absent from the home and payment was made to the provider to meet the child's needs; or
- (2) The overpayment was exclusively the result of county administrative error; or
- (3) The provider did not have knowledge of, and did not contribute to the cause of the overpayment.

- (b) Interest collection would cause a financial hardship for the provider to provide adequate care and supervision to all children in care.

.34 Unless otherwise provided for in this section, the county shall collect group home provider and foster family agency overpayments in accordance with the procedures established for group home overpayments pursuant to MPP Section 11-402.66. For purpose of this section, the term "county" shall be substituted for the word "department" wherever that term appears in MPP Section 11-402.66.

.23 Demand for Repayment

~~Where voluntary and involuntary repayment procedures are not available, the county shall demand repayment of any amount not recovered by grant adjustment, or otherwise repaid, using an appropriate Notice of Action form.~~

~~.24~~ .35 Civil Judgment

If the provider has failed to comply with a voluntary repayment ~~procedures and/or agreement~~, a demand for repayment, and a grant ~~adjustment shall not be used~~ offset is not available as the provider is no longer providing services to the child for whom the overpayment was assessed, the county shall, unless the costs exceed the amount of the overpayment:

.351 ~~Refer~~ the case to the appropriate county official for action on a civil judgment.

~~.241~~ .352 Record An abstract of civil judgment ~~shall be recorded~~ pursuant to Section 674, Code of Civil Procedure, in any county in which the provider or former provider owns real property.

~~.242~~ .353 ~~The county shall take all appropriate actions pursuant to Section 681 et seq., Code of Civil Procedure, to execute the judgment.~~

.354 If the county does not pursue civil judgment because the cost for the above described actions exceed the amount of the overpayment, the county shall comply with the documentation requirements set forth in MPP Section 45-304.125(c).

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Sections 32 and 33.

Reference: Sections 11466.23, 11466.235, and 11466.24, Welfare and Institutions Code.

Amend Section 45-306 to read:

45-306 INFORMAL AND FORMAL HEARING PROCEDURES

45-306

This section applies only to the appeal rights of providers subject to an collectible overpayment assessment pursuant to Section 45-304 and Section 45-305. This informal and formal hearing processes is are not available to providers, who have ~~defaulted on~~ entered into a voluntary repayment ~~schedule~~ agreement, to contest the overpayment determination or the overpayment amount.

- .1 The informal hearing process shall not ~~interfere with~~ preclude the provider's right to a state hearing.
- .2 Counties shall provide informal hearings in accordance with the following procedures:
 - .21 Counties must ~~notify~~ provide written notice to the provider of the availability of an informal hearing process ~~at the same time when~~ when the county notifies the provider of the overpayment. ~~The right to an informal hearing is in addition to the right to a state hearing. The notice to the provider must inform the provider that he or she must request either an informal hearing or a formal hearing within 30 days of the receipt of the notice. The county shall send the Statewide form NA 1261 (6/09), to the provider.~~
 - .22 An informal hearing shall be provided by the CWD to the provider only when the provider has requested an informal hearing ~~in writing~~ no later than 30 calendar days after the ~~overpayment notice~~ Statewide form NA 1261 was mailed by the county to the provider.
 - .23 The informal hearing shall be conducted by an employee designated by the county welfare department director. The designated employee shall be ~~at least one supervisory step above the employee which made the initial overpayment determination. The designated employee shall not have been involved in~~ knowledgeable in the subject area, and shall not be the person who made the initial overpayment determination.
 - .24 The informal hearing shall be ~~permitted to be~~ held in an office or facility of the CWD. ~~If necessary~~ agreed upon by the provider and the county, the informal hearing may be held elsewhere or conducted by telephone. (Continued)
 - .26 The informal hearing shall be limited to consideration of the correctness of the initial overpayment determination and whether any of the factors in Section 45-304.1243 bar recovery. The county ~~should~~ may also discuss the methods of overpayment recovery with the provider and attempt to enter into a voluntary repayment agreement, where appropriate.

- .27 After the hearing, the county employee who conducted the informal hearing shall prepare a Notice of Action letter which contains the decision on each issue considered at the informal hearing, and identification of the regulations which support the written decision and mail the Notice of Action letter to the provider. The Notice of Action letter must inform the provider that he or she can appeal the informal hearing decision at a formal state hearing.

HANDBOOK BEGINS HERE

Example: Through implementation of procedures identified in Section 45-304.1, the county determines an overpayment was made to a group home provider on January 2nd. The county implements procedures identified in Section 45-304.2 and proceeds to Section 45-305 for collection procedures.

The county provides written notification to the provider of the overpayment in accordance with Section 45-305.1. **Hearing procedures identified in Section 45-306 only apply to the appeal rights of providers subject to collectible overpayment assessments pursuant to Section 45-304 and Section 45-305.**

The county provides appeal rights at the time the county notifies the provider of the overpayment. The provider may or may not request an informal hearing within 30 calendar days of the date the notice to the provider was mailed.

If the provider does not request an informal hearing within 30 calendar days of the date the notice to the provider was mailed, the overpayment determination is sustained upon the 91st day, and therefore identified and the federal share of the overpayment must be repaid by the county, as identified in Section 45-304.53.

If the provider requests an informal hearing within 30 calendar days of the date the notice to the provider was mailed, the county must mail or deliver to the provider a written notice of the time and place of the informal hearing. The hearing shall be conducted in accordance with Sections 45-306.23, .24, .26, and .27.

Example: Overpayment discovered on January 2nd; notice to provider mailed on January 3rd; the county receives a request for an informal hearing from the provider on January 14th; the county schedules the informal hearing for January 31st; the county mails the informal hearing date and time to the provider on or before January 23rd.

HANDBOOK ENDS HERE

- .3 If a provider requests an informal hearing, the 90-day period to request a formal hearing under MPP Section 22-009.11 shall be suspended. The 90-day period to request a formal hearing shall start when the county issues an informal hearing decision, or when the provider either withdraws their request for the informal hearing, or fails to appear for the informal hearing, whichever occurs first.

HANDBOOK BEGINS HERE

Example #1: A provider requests an informal hearing therefore the 90-day period to request a formal hearing is suspended.

Example #2: A provider requests and receives an informal hearing. The county provides a written decision mailed to the provider as identified in Section 45-306.27. The provider has a right to request a formal hearing of the written decision within 90 days.

Informal hearing held on January 31st. County prepares a letter identifying the decisions on each issue considered at the informal hearing in accordance with Section 45-306.27 and mails the decision letter on February 8th. The provider receives the letter and has 90 days from February 8th to request a formal hearing. The county must receive a request for a formal hearing from the provider no later than May 7th.

Example #3: A provider requests an informal hearing and subsequently withdraws the request for the informal hearing. The date the provider withdraws the request for the informal hearing begins the 90-day period to request a formal hearing.

The provider was scheduled for an informal hearing on January 31st. The provider withdrew the request for an informal hearing on January 28th. The county must receive a request for a formal hearing from the provider no later than April 26th.

Example #4: A provider requests an informal hearing and fails to appear on the scheduled date and time. The date the provider fails to appear for the scheduled informal hearing begins the 90-day period to request a formal hearing.

The hearing is scheduled for January 31st and the date and time notice is mailed no later than 7 days prior to the hearing by the county. The provider fails to appear for the informal hearing. The county must receive a request for a formal hearing from the provider no later than April 29th.

HANDBOOK ENDS HERE

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 84, Chapter 177, Statutes of 2007, Section 33.

Reference: Sections 11466.235 and 11466.24, Welfare and Institutions Code.

NOTICE OF ACTION

COUNTY OF _____

STATE OF CALIFORNIA
HEALTH AND HUMAN SERVICES AGENCY
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

Notice Date: _____

Case Name: _____

Worker Number: _____

Worker Name: _____

Case Number: _____

Telephone: _____

Address: _____

(ADDRESSEE)

Questions? Ask your Worker.

This is to inform you that you were overpaid AFDC-Foster Care benefits for _____ for

(NAME OF CHILD)

the period of _____ to _____ .

(MM/DD/YYYY)

(MM/DD/YYYY)

Reason for the overpayment:

- Child left your facility/home on _____ and you were not entitled to payments for him/her on or after this date; or
- The child's parents resided in your home during the period of time for which you were paid; or
- Other: _____

Total amount you received: \$ _____

Total amount you should have received: \$ _____

Total amount of Overpayment: \$ _____

Date of Discovery: _____

You are required to repay the overpayment amount of \$ _____ .

Please pay by check or money order, made payable to:

Send to

If you disagree with the overpayment or the amount of the overpayment, please see reverse for hearing instructions.

If you agree with the overpayment amount you must do one of the following within 90 calendar days from the day the county gave or mailed you this notice:

- Make a one time payment of the total amount;
- Reach an arrangement with the county for a written repayment agreement or a written voluntary grant offset.

If you fail to repay your overpayment in lump sum or enter into a voluntary repayment agreement, you will be subject to an involuntary repayment of the overpaid amount.

If you have any questions regarding the overpayment computation or repayment arrangements, please contact the worker at the top of this form.

Regulations cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 11466.24. EAS Section 45-304, 45-305, 45-306 and 22-009.

YOUR HEARING RIGHTS

You have the right to ask for a hearing if you disagree with any county action. You have only 90 days to ask for a hearing. The 90 days started the day after the county gave or mailed you this notice.

State Hearing: If you think this action is wrong, you can ask for a hearing. Your benefits may not be changed if you ask for a hearing before this action takes place.

To request a Hearing:

If you think this action is wrong, you can ask for either an informal hearing provided by the County or a formal State hearing. Your benefits may not be changed if you ask for a hearing before this action takes place.

In order to request an informal hearing, your request must be made no later than 30 calendar days after this notice was mailed to you. You may send your request by any of the following methods.

In writing:

Email requests:

Address

Phone requests:

Address

Your request should state why you want the informal hearing and if you will need a free interpreter. If so, please indicate what language or dialect you speak.

You may appeal the informal hearing decision at a formal State hearing. You may request the formal State hearing within 90 calendar days after the informal hearing decision is mailed to you. If the informal hearing is requested but not held, the 90 days will begin 31 calendar days from the date of this notice.

If you choose a formal State hearing, please note that you must request that State hearing within 90 calendar days of the receipt of this notice.

If you have any questions, contact the worker at the top of this form.

TDD - For Hearing Impaired

TO ASK FOR A HEARING:

- Fill out this page.
- Make a copy of the front and back of this page for your records. If you ask, your worker will get you a copy of this page.
- Send or take this page to:

OR

- Call toll free: 1-800-952-5253 or for hearing or speech impaired who use TDD, 1-800-952-8349.

To Get Help: You can ask about your hearing rights or for a legal aid referral at the toll-free state phone numbers listed above. You may get free legal help at your local legal aid or welfare rights office.

If you do not want to go to the hearing alone, you can bring a friend or someone with you.

HEARING REQUEST

I want a hearing due to an action by the Welfare Department of _____ County about my:

☐ Overpayment _____

Here's Why: _____

- ☐ If you need more space, check here and add a page.
- ☐ I need the state to provide me with an interpreter at no cost to me. (A relative or friend cannot interpret for you at the hearing.)
- My language or dialect is: _____

NAME OF PERSON WHOSE BENEFITS WERE DENIED, CHANGED OR STOPPED

BIRTH DATE

PHONE NUMBER

STREET ADDRESS

CITY

STATE

ZIP CODE

SIGNATURE

DATE

NAME OF PERSON COMPLETING THIS FORM

PHONE NUMBER

- ☐ I want the person named below to represent me at this hearing. I give my permission for this person to see my records or go to the hearing for me. (This person can be a friend or relative but cannot interpret for you.)

NAME

PHONE NUMBER

STREET ADDRESS

CITY

STATE

ZIP CODE

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

OAL FILE
NUMBERS

Z-2009-2017-10

2009-0619-08 S

For use by Office of Administrative Law (OAL) only

2009 JUN 19 PM 12:19
OFFICE OF
ADMINISTRATIVE LAW

FILED

In the office of the Secretary of State
of the State of California

JUL 31 2009

At 3:25 O'Clock P M.
DEBRA BOWEN, Secretary of State
By *[Signature]*
Deputy Secretary of State

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

California Department of Social Services

AGENCY FILE NUMBER (if any)

ORD #1208-09

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER 09, #92	PUBLICATION DATE 2-27-2009

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Adult Residential Facility Age Regulations	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	ADOPT
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	AMEND <i>per agency 7/31/09 EAH</i>
80001 and 85068.4	REPEAL
TITLE(S) Title 22/MPP	

3. TYPE OF FILING

- ☒ Regular Rulemaking (Gov. Code §11346)
- ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
- ☐ Emergency (Gov. Code, §11346.1(b))
- ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
- ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
- ☐ Emergency Readopt (Gov. Code, §11346.1(h))
- ☐ File & Print
- ☐ Other (Specify) _____
- ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
- ☐ Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

- ☒ Effective 30th day after filing with Secretary of State
- ☐ Effective on filing with Secretary of State
- ☐ §100 Changes Without Regulatory Effect
- ☐ Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- ☐ Department of Finance (Form STD. 399) (SAM §6660)
- ☐ Fair Political Practices Commission
- ☐ State Fire Marshal
- ☐ Other (Specify) _____

7. CONTACT PERSON Sandra Ortega, Chief, ORD	TELEPHONE NUMBER 916-657-2586	FAX NUMBER (Optional) 916-654-3286	E-MAIL ADDRESS (Optional)
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>[Signature]</i>	DATE 6-15-09
TYPED NAME AND TITLE OF SIGNATORY JOHN A. WAGNER, Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUL 31 2009

Office of Administrative Law

Amend Section 80001 to read:

80001 DEFINITIONS

80001

(a) (Continued)

(5) "Adult Residential Facility" means any facility of any capacity ~~which~~ that provides 24-hour-a-day nonmedical care and supervision to ~~adults except elderly persons.~~ the following:

(A) persons 18 years of age through 59 years of age; and

(B) persons 60 years of age and older only in accordance with Section 85068.4.

(6) (Continued)

Authority Cited: Sections 1502, 1522.41(j); 1524(e), 1530, and 1530.9, Health and Safety Code.

Reference: Sections 1501, 1502, 1502(a)(7) and (8), 1502.5, 1503, 1503.5, 1505, 1507, 1508, 1509, 1511, 1520, 1522, 1524, 1524(e), 1525, 1525.5, 1526, 1527, 1530, 1530.5, 1531, 1531.1, 1533, 1534, 1536.1, 1537, 1538.5, 1550, 1551, 1556, 1569.699(a), 1797.196, and 11834.11, Health and Safety Code; Sections 5453, 5458, 11006.9, and 17736(a) and (b), Welfare and Institutions Code; and 29 CFR 1910.1030;

Joint Stipulation and Order for Settlement in the
matter of California Association of Mental
Health Patients' Rights Advocates v. Cliff Allenby, et al., Santa Clara County
Superior Court, No. 106-CV061397, issued November 14, 2008.

per
agency
7/31/09
EAT

Amend Section 85068.4 to read:

85068.4 ACCEPTANCE AND RETENTION LIMITATIONS

85068.4

(a) (Continued)

(3) Persons who have needs ~~which~~ that are in conflict with the needs of other clients or the program of services offered. (Continued)

(b) The licensee ~~shall not~~ may admit, ~~but may~~ or retain, persons who are ~~over 59~~ 60 years of age or older whose needs are compatible with those of other clients, if they require the same level of care and supervision as ~~do~~ the other clients in the facility, and the licensee is able to meet their needs.

(1) ~~Licensees are not required to obtain an exception for clients over the age of 59 as long as the number of persons over the age of 59 does not exceed 50 percent of the census in facilities with the capacity of six and under.~~

(2) ~~Licensees are not required to obtain an exception for clients over the age of 59 as long as the number of persons over the age of 59 does not exceed 25 percent of the census in facilities with a capacity of over six.~~

(c) When a licensee admits or retains any person 60 years of age or older, the licensee shall ensure that all of the following information is contained in the person's file:

(1) Completed Functional Capabilities Assessment, required by Section 80069.2.

(2) Completed Needs and Services Plan, required by Section 85068.2. If one or more age-related care needs are identified by the provider or the referring source, the licensee shall ensure that the Needs and Services Plan specifies how such need(s) will be addressed.

(3) Documentation of a medical assessment, signed by a physician, made within the last year.

(4) A letter of support from the person's conservator with placement authority, if applicable.

(5) Letters of support, if any, from the person's placement officer, social worker, and/or mental health professional, if applicable, documenting that the Adult Residential Facility is the most appropriate setting for the person.

(d) The licensee shall ensure that the Needs and Services Plan for each client 60 years of age or older is updated at least annually and in accordance with Section 85068.3.

- (e) The licensee shall ensure that the medical assessment for each client 60 years of age or older is updated at least annually and in accordance with the regulations addressing medical assessments in Residential Care Facilities for the Elderly (RCFE) [California Code of Regulations, Title 22, Sections 87458(b) and (c)].
- (f) The Department may require the licensee to comply with various regulations applicable to RCFEs if the Department determines that compliance with any such specific regulations is necessary to protect the health and safety of clients 60 years of age or older. Such regulations may include, but not be limited to, those pertaining to the training of staff members who assist clients with personal activities of daily living; the regular observation of clients for changes in physical, mental, emotional, and social functioning; and the notification of the client's physician and responsible person and/or authorized representative, if any, of documented changes.
- (g) If acceptance or retention of an individual 60 years of age or older would result in the number of persons 60 years of age or older exceeding 50 percent of the census in facilities with a capacity of six or fewer clients, or 25 percent of the census in facilities with a capacity over six, the licensee must request an exception in order to accept or retain the individual. The exception request must be made in accordance with Section 80024. The documentation specified in Section 85068.4(c) must be submitted with the exception request.
- (eh) Retention of all clients shall be in accordance with ~~the~~ each client's Needs and Services Plan, required by Section 85068.2, and the criteria specified in Section 80092, Restricted Health Conditions.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1507, and 1531, Health and Safety Code; Joint Stipulation and Order for settlement in the matter of
California Association of Mental Health Patients' Rights Advocates v. Cliff Allenby, et al., Santa Clara County Superior Court, No. 106-CV061397, issued November 14, 2008.

per agency
7/30/09
ETA

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2009-0819-02E
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For use by Office of Administrative Law (OAL) only

2009 AUG 19 AM 11:26
OFFICE OF
ADMINISTRATIVE LAW

For use by Secretary of State only

FILED

In the office of the Secretary of State of the State of California

AUG 31 2009

At 3:16 O'Clock P M.
DEBRA BOWEN, Secretary of State
By [Signature]
Deputy Secretary of State

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

California Department of Social Services

AGENCY FILE NUMBER (if any)

ORD #0508-03

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed ☐ Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Division 31, Grievance Review Procedures	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 31-021
	AMEND 31-003, 31-410, and 31-501
	REPEAL
TITLE(S) MPP	

3. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code §11346)	☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	☐ Emergency Readopt (Gov. Code, §11346.1(h))	☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4)	☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	☐ File & Print	☐ Print Only
☒ Emergency (Gov. Code, §11346.1(b))		☐ Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

☐ Effective 30th day after filing with Secretary of State	☒ Effective on filing with Secretary of State	☐ §100 Changes Without Regulatory Effect	☐ Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) (SAM §6660)	☐ Fair Political Practices Commission	☐ State Fire Marshal
☐ Other (Specify) _____		

7. CONTACT PERSON Sandra Ortega, Manager, ORD	TELEPHONE NUMBER 657-2586	FAX NUMBER (Optional) 654-3286	E-MAIL ADDRESS (Optional)
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <u>[Signature]</u>	DATE 8/18/09
TYPED NAME AND TITLE OF SIGNATORY ROBERT L. GARCIA, Chief Deputy Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

AUG 31 2009

Office of Administrative Law

Amend Section 31-003 to read:

31-003 DEFINITIONS – FORMS (Continued)

31-003

(s) (1) (Continued)

(2) SOC 832 (Rev. 5/08) Notice of Child Abuse Central Index Listing, hereby incorporated by reference, is used for the purpose of notifying individuals that their name has been submitted to the Department of Justice (DOJ) for listing on the Child Abuse Central Index (CACI).

(3) SOC 833 (Rev. 3/08) Grievance Procedures for Challenging Reference to the Child Abuse Central Index, hereby incorporated by reference, is used for the purpose of informing individuals of the requirements for requesting a grievance hearing, as well as providing information regarding timeframes and all required components of a grievance hearing.

(4) SOC 834 (Rev. 6/08) Request for Grievance Hearing, hereby incorporated by reference, is used for the purpose of providing individuals with a mechanism for requesting a grievance hearing to challenge their listing on the CACI.

(t) (Continued)

Authority Cited: Sections 10553, 10554, and 10850.4, Welfare and Institutions Code.

Reference: Gomez v. Saenz Settlement Agreement and Court Order, Case No: BC284896; Section 11169, Penal Code and Sections 827 and 10850.4, Welfare and Institutions Code and 42 USC 5106.

Adopt Section 31-021 to read:

31-021 CHILD ABUSE CENTRAL INDEX (CACI) GRIEVANCE PROCEDURES

31-021

- .1 Within five (5) business days of submitting an individual's name to the Department of Justice (DOJ) for listing on the CACI pursuant to Section 31-501.4, the following forms shall be sent to the individual at his/her last known address:
 - .11 The Notice of Child Abuse Central Index Listing (SOC 832).
 - .12 Grievance Procedures for Challenging Reference to the Child Abuse Central Index (SOC 833), and
 - .13 Request for Grievance Hearing (SOC 834).
- .2 Request for a Grievance Hearing
 - .21 The complainant shall send by mail, fax or in person, a completed SOC 834 form, or a written request for grievance hearing that includes all of the information required under Section 31-021.213, signed by the complainant to request a grievance hearing. This must be received by the county within thirty (30) calendar days of the date of notice. Failure to send the completed SOC 834 form or written request within the prescribed timeframe shall constitute a waiver of the right to a grievance hearing.
 - .211 For purposes of this section, a complainant is deemed aware of the county decision when the county mails the notification as specified in Section 31-021.1 to the complainant's last known address.
 - .212 For individuals to whom no prior notification was mailed regarding his or her submission to the CACI, the individual shall file the completed SOC 834 form within thirty (30) calendar days of becoming aware that he or she is listed in CACI and becoming aware of the grievance process.
 - .213 A completed SOC 834 form or a written request for grievance hearing shall include the referral number, name of county, complete contact information, date of birth, a reason for grievance which the complainant believes provides a basis for reversal of the county decision, and if represented, the name of the representative and contact information for the representative.
 - .214 The county shall assist the complainant in preparation of the request for grievance hearing if assistance is requested.
- .3 The following grievance hearing procedures shall only apply for challenges to county submission for listing individuals on the CACI.

- .31 A grievance hearing request shall be denied when a court of competent jurisdiction has determined that the suspected child abuse and/or neglect has occurred, or when the allegation of child abuse and/or neglect resulting in the referral to CACI is pending before the court.
- .311 If Section 31-021.31 no longer applies, a complainant can submit the completed SOC 834 form or written request within thirty (30) calendar days of the conclusion of the judicial matter to request a grievance hearing.
- .312 Timeframes for conducting and completing a grievance hearing will remain as specified in Sections 31-021.4 through .85.
- .4 The grievance hearing shall be scheduled within ten (10) business days and held no later than sixty (60) calendar days from the date the request for grievance is received by the county, unless otherwise agreed to by the complainant and the county.
- .41 Notice of the date, time and place of the grievance hearing shall be mailed by the county to the complainant at least thirty (30) calendar days before the grievance hearing is scheduled, unless otherwise agreed to by the complainant and the county.
- .42 The complainant may have an attorney or other representative present at the hearing to assist him or her.
- .43 Either party may request a continuance of the grievance hearing not to exceed ten (10) business days. Additional continuance or dismissal of the hearing shall be granted with mutual agreement of all parties involved or for good cause.
- .44 The county may resolve a grievance at any point by changing a finding of inconclusive or substantiated child abuse and/or neglect to unfounded and notifying the DOJ of the need to remove the individual's name from the CACI.
- .5 The grievance review officer conducting the grievance hearing shall be:
- .51 A staff or other person not directly involved in the decision, or in the investigation of the action or finding, that is the subject of the grievance hearing.
- .52 Neither a coworker nor a person directly in the chain of supervision of any of the persons involved in the finding, or in the investigation of the action or finding, that is the subject of the grievance hearing unless the grievance review officer is the director or chief deputy director of the county.

- .521 For the purposes of this section, a coworker includes a staff person who has regular direct contact with the staff involved in the finding related to the grievance, and this person is unable to separate themselves as an impartial reviewer.
- .53 A staff or other person who is knowledgeable of the child welfare services field and capable of objectively reviewing case information pertaining to the grievance.
- .6 The grievance review hearing shall be conducted in the following manner:
- .61 The grievance hearing shall, to the extent possible, be conducted in a non-adversarial environment.
- .62 The county, complainant and his or her representatives, if any, shall be permitted to examine all documents and relevant evidence that is not otherwise made confidential by law, which the opposing party intends to introduce at the grievance hearing.
- .621 The county and the complainant shall make available for inspection the documents and other evidence they intend to rely upon at the grievance hearing at least ten (10) business days prior to the hearing, to the extent permitted by law.
- (a) The county shall redact such names and personal identifiers from the documents and evidence as required by law and to protect the identity, health, and safety of those mandated reporters of suspected child abuse and/or neglect pursuant to Penal Code Section 11167. The county may further redact information regarding the mandated reporter's observations of the evidence indicating child abuse and/or neglect.
- .622 The county shall release disclosable information to the complainants' attorney or representative only if the complainant has provided the county with a signed consent to do so.
- .623 Witness lists shall be available for exchange in advance of the hearing. The county and the complainant shall provide a list of witnesses they intend to call at the grievance hearing at least ten (10) business days prior to the grievance hearing.
- .624 Failure to disclose evidence or witness lists in advance of the grievance hearing can constitute grounds for objecting to consideration of the evidence or allowing testimony of a witness during the hearing.
- .63 Each party and their attorney or representative, and witnesses while testifying, shall be the only persons authorized to be present during the grievance hearing unless all parties and the grievance review officer consent to the presence of other persons.

- .64 The information disclosed at the grievance hearing may not be used for any other purpose. No information presented at the grievance hearing shall be disclosed to any person other than those directly involved in the matter. Any documents or other evidence disclosed by the county to the complainant or the complainant's representative shall be returned to the county at the conclusion of the hearing.
- .65 All testimony shall be given under oath or affirmation.
- .66 The grievance review officer has no subpoena power. However, the parties may call witnesses to the hearing and question the witnesses called by the other party.
- .661 The grievance review officer may limit the questioning of the witness to protect the witness from unwarranted embarrassment, oppression, or harassment.
- .662 The grievance review officer may prevent the presence and/or examination of a child at the grievance hearing for good cause, including but not limited to protecting the child from trauma or to protect his or her health, safety, and/or well-being.
- .663 The grievance review officer may permit the testimony and/or presence of a child only if the child's participation in the grievance hearing is voluntary and the child is capable of providing voluntary consent.
- (a) The grievance review officer may interview the child outside the presence of county staff, complainant and/or any other party in order to determine whether the participation of the child is voluntary, or whether good cause exists for preventing the child from being present or testifying at the grievance hearing.
- .67 The county employee(s) who conducted the investigation that is the subject of the grievance hearing shall be present at the hearing if that person is employed by the county and is available to participate in the grievance hearing.
- .671 For purposes of this paragraph, a conflict in work assignments shall not render the county employee who conducted the investigation unavailable to participate in the hearing.
- .68 The county shall first present its evidence supporting its action or findings that are the subject of the grievance. The complainant will then provide evidence supporting his or her claim that the county's decision should be withdrawn or changed. The county shall then be allowed to present rebuttal evidence in further support of its finding. Thereafter, the grievance review officer may, at his or her discretion, allow the parties to submit any additional evidence as may be warranted to fully evaluate the matter under review.

- .681 The grievance review officer shall have the authority to continue to review for a period not to exceed ten (10) calendar days if additional evidence or witnesses are necessary to make a determination on the issue.
- .7 The county shall have the proceedings of the grievance hearing audio recorded as part of the official administrative record. The county shall possess and maintain the administrative record of the grievance hearing.
- .71 The complainant or the complainant's attorney and/or representative shall be entitled to inspect the recording and any transcripts made thereof, however the county shall keep possession of the recording and transcript and its contents will remain under seal.
- .711 Where the complainant seeks to inspect the transcript, the costs for transcribing a recording of the hearing shall be assessed to the complainant.
- .72 The county shall lodge the administrative record with the court if any party seeks judicial review of the final decision of the county director.
- .8 Grievance hearing decisions shall be rendered as follows:
- .81 The grievance review officer shall make a determination based upon the evidence presented at the grievance hearing, whether the allegation of child abuse and/or neglect is unfounded, inconclusive, or substantiated as defined by the Penal Code Section 11165.12.
- .82 The grievance review officer shall render a written recommended decision within thirty (30) calendar days of the completion of the grievance hearing. The decision shall contain a summary statement of facts, the issues involved, findings, and the basis for the decision.
- .83 The county director shall issue a final written decision adopting, rejecting, or modifying the recommended decision within ten (10) business days after the recommended decision is rendered. The final written decision shall explain why a recommended decision was rejected or modified by the county director.
- .84 A copy of the decision shall be sent to the following:
- .841 The complainant that requested the grievance hearing;
- .842 The complainant's attorney or representative, if any; and
- .843 The California Department of Social Services.
- .85 If the complainant chooses to challenge the final decision of the county director, the evidence and information disclosed at the grievance hearing may be part of an administrative record for a writ of mandate and kept confidential. The

administrative record shall be kept confidential, including, if any of the parties request, that it be filed with the court under seal.

- .86 The grievance hearing administrative record shall be retained for a length of time consistent with current law, regulations, or judicial order which governs the retention of the underlying record, but not less than one year from the decision date in any circumstance, and shall include the documents and other information accepted as evidence at the hearing.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Gomez v. Saenz Settlement Agreement and Court Order, Case No: BC284896; Sections 11165.12, 11166(g) and 11167, Penal Code and Sections 827, 10850, and 16503, Welfare and Institutions Code.

Amend Section 31-410 to read:

31-410 TEMPORARY PLACEMENT (Continued)

31-410

.5 The county welfare department or probation department shall begin an assessment for a relative or nonrelative extended family member, as defined in Welfare and Institutions Code Section 319, who either has requested placement of a child pending the detention hearing or whom the social worker/probation officer has identified as willing to provide care for a child pending the detention hearing.

.51 The assessment shall include, but is not limited to, all of the following: (Continued)

.514 The results of a Child Abuse Central Index (CACI) check conducted on all persons 18 years of age and older residing in the home.

HANDBOOK BEGINS HERE

- (a) Penal Code Section ~~11170(b)(5)~~ 11170(c) in summary states that when Child Abuse Central Index information is released by the Department of Justice for temporary placement of a child, the child protective services agency or court investigator is responsible for notifying, in writing, the person listed in the Child Abuse Central Index that he/she is in the index. The notification shall include the name of the reporting agency and the date of the report.
- (b) Penal Code Section 11170(b)(~~610~~)(A) in summary requires persons or agencies who receive Child Abuse Central Index information for purposes of licensing, adopting or placing a child to obtain the underlying report from the reporting agency and make their own independent assessment regarding the quality of the evidence disclosed and its sufficiency for making decisions regarding the placement of a child which will be the most appropriate placement and in the best interest of the child.

HANDBOOK ENDS HERE

.515 A CACI listing does not necessarily preclude placement with a relative or non-related extended family member. Instead, the relative or non-related extended family member may still be entitled to placement upon consideration of all relevant factors. These factors include but are not limited to the following:

- (a) The nature of the substantiated or inconclusive child abuse/neglect report that led to the CACI listing;

- (b) The period of time that has elapsed since the substantiated or inconclusive child abuse/neglect was committed and the number of offenses;
- (c) The circumstances surrounding the commission of the substantiated or inconclusive child abuse/neglect that would demonstrate the likelihood of repetition; and
- (d) Character references.

.52 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and Assembly Bill 1695, Section 21.

Reference: Sections 309 (as amended by Assembly Bill 1544, Chapter 793, Statutes of 1997), 319 (as amended by Senate Bill 2232, Chapter 1530, Statutes of 1990), 319(d) (as amended by Assembly Bill 1544, Chapter 793, Statutes of 1997), 309, 309(d), 319, 319(f), 361.2(h), 362.7, 727, 11402, and 16507.5(b) (as amended by Assembly Bill 1695, Chapter 653, Statutes of 2001), 361.2(b) and (g), 366(c), 11467.1, and 16501.1(c), Welfare and Institutions Code; Section 1530.8, Health and Safety Code; Sections ~~11170(b)(5), and 11170(b)(610)(A)~~ and 11170(c) (as amended by Senate Bill 644, Chapter 842, Statutes of 1997), Penal Code; and 42 U.S.C. Section 675(1)(A), and Gomez v. Saenz Settlement Agreement and Court Order, Case No: BC284896.

Amend Section 31-501 to read:

CHAPTER 31-500 SPECIAL REQUIREMENTS

31-501 CHILD ABUSE AND NEGLECT REPORTING REQUIREMENTS

31-501

- .1 The county shall report by telephone, fax or electronic submission every known or suspected instance of child abuse and/or neglect as defined in Penal Code Section 11165.6, to law enforcement departments and the District Attorney's Office as specified in Penal Code Section 11166(gj).

HANDBOOK BEGINS HERE

Penal Code Section 11165.6 defines child abuse or neglect to include physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, the willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Section 11165.3, and unlawful corporal punishment or injury as defined in Section 11165.4. "Child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

HANDBOOK ENDS HERE

- .2 When the county receives a report of known or suspected child abuse and/or neglect that has allegedly occurred in a licensed facility, the county shall, as specified in Penal Code Sections 11166.1 and 11166.2, notify the licensing office with jurisdiction over the facility, as specified in Penal Code Sections 11166.1 and 11166.2.
- .3 When the county receives a report of known or suspected child "abuse or neglect in out-of-home care," including a child placed in the home of a relative or non-related extended family member, the county shall create a new referral.
 - .31 The county shall respond to all referrals of "abuse or neglect in out-of-home care" in accordance with the provisions of Section 31-101.
 - .32 A disposition of the investigation shall be recorded in the child's case record.
- .34 The county shall submit a report to the Department of Justice (DOJ) pursuant to Penal Code Section 11169 to the Department of Justice of every case it investigates of known or suspected child abuse that it has determined not to be unfounded to be inconclusive or substantiated as defined in Penal Code Section 11165.2.
- .41 The county shall not submit a report to the DOJ for referrals it investigates and the only allegation substantiated is general neglect or the only incident is a positive

toxicology screening at the time of delivery, as specified in Penal Code Sections 11165.2(b) and 11165.13.

- .42 The county shall ensure that the report submitted to the DOJ is complete and is in conformity with the California Code of Regulations, Title 11.

HANDBOOK BEGINS HERE

- .421 The California Code of Regulations, Title 11, Standard Reporting Form for Reports of Child Abuse Maintained in the Automated Child Abuse System (ACAS) states:

- (a) The "Child Abuse Summary Report: Form SS 8583 is the standard reporting form required to report investigative summaries of suspected incidents of child abuse and severe neglect to ACAS. Reporting agencies shall submit Form SS 8583 to DOJ after an active investigation has been conducted and the incident has been determined not to be unfounded. Reporting agencies must obtain and use the most recent version of the SS 8583 when submitting the report to DOJ." The SS 8583 form is maintained by DOJ and may be obtained by contacting that department.

HANDBOOK ENDS HERE

- .3143 The county shall make information received from the Department of Justice available as specified in Penal Code Section 11170(b)(1). The county shall make information received from DOJ pursuant to Penal Code Section 11170(b)(1) available to the persons or agencies as specified in that section.
- .5 Within five (5) business days of the county submitting information to the DOJ to list an individual's name on the Child Abuse Central Index (CACI), the county shall provide to that individual written notification, which shall contain the following information and materials:
- .51 The completed SOC 832, as found in Section 31-003(s)(2), notification that the county has completed an investigation of suspected child abuse and/or severe neglect, which the county has determined to be either inconclusive or substantiated, and has submitted the individual's name to the DOJ for listing on the CACI;
- .511 The completed SOC 832 shall include the victim's name, and a brief description of the alleged abuse and/or severe neglect, and the date and location where this occurred;
- .52 The SOC 833, as found in Section 31-003(s)(3), information explaining the individual's right to request a grievance hearing, and the procedures for the hearing;
- .53 The SOC 834, as found in Section 31-003(s)(4), a request for grievance hearing;

- .531 A completed SOC 834 shall include the referral number, name of county, complete contact information, date of birth, reason for grievance, information regarding an attorney or representative for the individual if any, and the address where to submit the request for grievance hearing.
- .54 The SOC 832, 833 and 834 shall be mailed to the last known address where the notice and request for grievance are most likely to be received by the individual.
- .6 An individual wishing to challenge his or her referral to the CACI may request a grievance hearing utilizing the procedures under Section 31-021. The county may initiate an internal review relating to the matter identified in the request prior to the hearing.
- .7 Where the county's finding of inconclusive or substantiated for abuse and/or severe neglect is changed to unfounded as a result of the grievance hearing or internal review, or a judicial determination of factual innocence of all of the investigated allegations that supported the county's decision to refer the individual's name to the DOJ for listing on CACI, the county shall within five business days submit to the DOJ a revised DOJ form SS 8583 containing the change in finding.
- .71 Where the county's finding of inconclusive or substantiated child abuse and/or neglect is changed to a finding other than unfounded as a result of the grievance hearing, the county shall within five business days submit to the DOJ a revised Form SS 8583 containing the change in finding.
- .8 The county shall document the outcome of the grievance hearing and any change in the finding of an allegation, if any, within the child's case record.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Gomez v. Saenz Settlement Agreement and Court Order, Case No: BC284896 and Sections 11165.12, 11165.5, 11165.6, 11166, 11166.1, 11166.2, 11166.3, 11169, and 11170(b)(1), Penal Code.

NOTICE OF CHILD ABUSE CENTRAL INDEX LISTING

NAME OF ALLEGED SUSPECT

COUNTY OF

The _____ County Child Welfare Services agency has completed an investigation of alleged child abuse or neglect and determined that the allegations of abuse or neglect are either inconclusive or substantiated. Pursuant to Penal Code Section 11169(b), this is notice that the finding of inconclusive or substantiated abuse or neglect was sent to the California Department of Justice (DOJ) for inclusion in the Child Abuse Central Index (CACI). The CACI contains certain information that enables authorized entities to locate investigations of alleged child abuse or neglect conducted by county child welfare departments.

Law enforcement agencies, court investigators, probation departments and district attorneys may use the CACI when investigating allegations of child abuse or neglect. The CACI is also used by licensing agencies and county welfare agencies to investigate persons who apply for licenses to care for children. If any of these agencies receive information from the CACI that there was a prior investigation of child abuse or neglect, they are required to investigate the child abuse or neglect allegation(s).

REPORTS OF SUSPECTED CHILD ABUSE MAINTAINED BY DOJ ARE CONFIDENTIAL AND MAY ONLY BE DISCLOSED TO STATUTORILY AUTHORIZED PARTIES (PENAL CODE SECTION 11167.5).

The County has determined that the allegation of child abuse or neglect against you is:

☐ Inconclusive

or

☐ Substantiated

An inconclusive finding is defined by Penal Code Section 11165.12(c) to mean that the investigator who conducted the investigation determined that the allegation of abuse or neglect was not unfounded but there is insufficient evidence to determine whether child abuse or neglect has occurred.

A substantiated finding is defined by Penal Code section 11165.12(b) to mean that the investigator who conducted the investigation determined that, based upon the evidence, it was more likely than not that child abuse or neglect occurred.

The term child abuse and neglect is defined by Penal Code section 11165.6. This determination is based on the following information discovered during the investigation:

NAME OF ALLEGED VICTIM(S):

DATE(S) AND LOCATION(S) THE ALLEGED ABUSE OR NEGLECT OCCURRED:

THE SPECIFIC ACT(S) OF ABUSE OR NEGLECT ALLEGED AGAINST YOU IS/ARE AS FOLLOWS:

REFERRAL NUMBER:

No action on your part is required at this time. However, if you want to challenge your listing on the CACI, you must complete the enclosed Request for Grievance Hearing form, and mail it to the following address:

You must mail the completed Request for Grievance Hearing form no later than 30 days from the date of this notice. As part of the grievance hearing procedures, you may inspect or receive a copy of the investigative report into this matter, which may be altered to remove information that the county is not authorized to provide to you. This information may be requested by checking the box under the signature line of the Request for Grievance Hearing form. For more information, you can contact:

COUNTY STAFF PERSON:

PHONE

DATED

()

GRIEVANCE PROCEDURES FOR CHALLENGING REFERENCE TO THE CHILD ABUSE CENTRAL INDEX

1. Within five (5) business days of the county submitting information to the Department of Justice (DOJ) to list an individual on the Child Abuse Central Index (CACI), the county shall provide to the listed person written notice, which shall contain the following information and materials:
 - a. That the county has completed an investigation of suspected child abuse or neglect that the county has determined to be either inconclusive or substantiated, and has referred the individual to DOJ for listing on the CACI;
 - b. The victim's name, a brief description of the alleged abuse or neglect and the date and location it occurred;
 - c. The individual's right to request a grievance hearing;
 - d. A county contact person;
 - e. A *Request for Grievance Hearing form*;
 - f. A copy of these grievance procedures

The notice required by this section may be satisfied by mailing the *Notice of Child Abuse Central Index Listing* and the *Request for Grievance Hearing forms*. The forms shall be mailed to the last known address of the individual or any other address known by the county where the notice and request for grievance are most likely to be received by the individual.

2. An individual wishing to challenge his or her reference to the CACI may request a grievance hearing pursuant to the following procedure. This does not preclude the county from initiating an internal investigation to address or rectify the matter identified in the request for grievance prior to the hearing. The county may resolve a grievance at any point by modifying a finding of inconclusive or substantiated abuse or neglect to unfounded and notifying DOJ of the need to remove the individual's name from the CACI.
 - a. A grievance shall be initiated by the individual submitting a written and signed *Request for Grievance Hearing*.
 - b. The *Request for Grievance Hearing* shall set forth the facts which the individual believes provides a basis for reversal of the county's finding of inconclusive or substantiated abuse.
 - c. The individual shall mail a completed *Request for Grievance Hearing form* to the county within thirty (30) calendar days of the date that the *Notice of Child Abuse Central Index Listing and Request for Grievance Hearing forms* were mailed to the individual identified as the perpetrator of the alleged abuse or serious neglect. Failure to mail the *Request for Grievance Hearing form* within the prescribed time-frame shall constitute waiver of the right to a grievance.
 - d. For individuals to whom no prior notification was mailed regarding his or her referral to the CACI, the individual shall file the request for grievance within 30 calendar days of becoming aware that he or she is listed on the CACI and becoming aware of the grievance process.
 - e. No grievance hearing shall be required when a court of competent jurisdiction has determined that the suspected abuse or neglect has occurred, or when the allegation of child abuse or neglect resulting in the referral to the CACI is pending before the court.
 - f. When an individual requests, the county shall assist the individual in the completion of the form necessary to initiate the request for grievance.
3. The grievance hearing shall be scheduled within ten (10) business days and held no later than sixty (60) calendar days from the date the *Request for Grievance Hearing form* is received by the county, unless otherwise agreed to by the individual and the county.
 - a. Notice of the date, time and place of the grievance hearing shall be mailed by the county to the individual requesting the grievance hearing (the complainant) at least 30 calendar days before the grievance hearing.
 - b. The complainant may have an attorney or other representative present at the hearing to assist him or her. The county shall release disclosable information to such attorney or representative only if the individual has provided the county with a signed authorization to do so.
 - c. Either party may request a continuance of the grievance hearing not to exceed ten (10) business days. Additional continuances, or dismissal of the hearing, shall be granted with mutual agreement of all parties involved, or for good cause.
4. The review of the social worker's finding of inconclusive or substantiated abuse or neglect shall be conducted as follows:
 - a. The grievance officer conducting the grievance hearing shall be:
 - i. A staff or other person not involved in the investigation of the alleged child abuse or neglect.
 - ii. Neither a co-worker nor a person directly in the chain of supervision of any of the persons involved in the investigation of the alleged abuse or neglect unless the grievance officer is the director or chief deputy director of the county.
 - iii. Knowledgeable in the field of child abuse or neglect investigations and capable of objectively reviewing the complaint.
 - b. The grievance hearing shall be, to the extent possible, conducted in a nonadversarial atmosphere.
 - c. Each party and their attorney or representative shall be permitted to examine the documents and other evidence which the opposing party intends to introduce at the grievance hearing. All relevant evidence, whether inculpatory or exculpatory, should be permitted to be examined in advance of the hearing. Witness lists shall be available for exchange in advance of the hearing. Failure to disclose evidence or witness lists in advance of the hearing can constitute grounds for objecting to consideration of the evidence at the hearing or to hearing the testimony of a witness during the hearing. Any documents or other evidence disclosed by the county to the complainant and/or his or her attorney or representative for the hearing shall be returned to the county at the conclusion of the hearing.
 - i. The county and the complainant shall make available for inspection the documents and other evidence they intend to rely upon at the grievance hearing at least ten (10) business days prior to the hearing, to the extent permitted by law.

- ii. The county and the complainant shall make available to the other party a list of witnesses they intend to call at the grievance hearing at least ten (10) business days prior to the grievance hearing, to the extent permitted by law.
 - iii. The county may redact such names and personal identifiers from the documents and evidence as required by law and to protect the identity, health, and safety of those reporting the suspected abuse or neglect and providing information regarding their observations of the evidence indicating abuse or neglect.
 - d. Each party and their attorney or representative, and witnesses while testifying, shall be the only persons authorized to be present during the hearing unless all parties and the grievance officer consent to the presence of other persons. The information disclosed at the grievance hearing may not be used for any other purpose. The parties agree that no information presented at the grievance hearing will be disclosed to any person other than those directly involved in the matter. The evidence and information disclosed at the hearing may be part of an administrative record for a writ of mandate challenging the final decision of the County Director. The administrative record shall be kept confidential, including, if any of the parties request, that it be filed with the court under seal.
 - e. All testimony shall be given under oath or affirmation. The grievance officer has no subpoena power. However, the parties may call witnesses to the hearing and question the other party's witnesses. The grievance officer may limit the questioning of a witness to protect the witness from unwarranted embarrassment, oppression or harassment.
 - i. The grievance officer may prevent the presence and /or examination of a child at the grievance hearing for good cause, including but not limited to protecting the child from trauma or to protect his or her health, safety, and/or well-being. The grievance officer may permit the testimony and/or presence of a child only if the child's participation in the grievance is voluntary and the child is capable of providing voluntary consent. The grievance officer may interview the child outside the presence of the parties in order to determine whether the child's participation is voluntary or whether good cause exists for preventing the child from being present or testifying at the hearing.
 - ii. The county employee who conducted the investigation into the suspected child abuse or neglect shall be present at the hearing if that person is employed by the county, and is available to participate in the grievance. For purposes of this paragraph, a conflict in work assignments shall not render the county employee who conducted the investigation unavailable to participate in the hearing.
 - f. The county shall first present its evidence supporting its findings of inconclusive or substantiated abuse or neglect. The complainant will then provide his or her evidence supporting his or her claim that the county's finding should be withdrawn or changed. The county shall then be allowed to present rebuttal evidence in further support of its finding. Thereafter, the grievance officer may, at his or her discretion, allow the parties to submit any such additional evidence as may be warranted to fully evaluate whether a finding of inconclusive or substantiated abuse is warranted.
 - g. The grievance officer shall have the authority to continue the hearing for a period not to exceed ten (10) calendar days if additional evidence or witnesses are necessary for determination of the issue.
 - h. The grievance officer shall determine, based upon the evidence presented, whether the allegation of abuse or neglect is unfounded, inconclusive or substantiated as defined by the California Penal Code.
 - i. The County shall have the proceedings audio recorded as part of the official administrative record. The county shall possess and maintain the administrative record of the hearing. The complainant or the complainant's attorney shall be entitled to inspect the transcript and/or recording, however the county shall keep possession of the transcript and tape and its contents will remain under seal. Where the complainant seeks to inspect the transcript, the costs for transcribing a recording of the hearing shall be assessed to the complainant. The county shall lodge the administrative record with the court if any party seeks judicial review of the final decision of the County Director.
5. Grievance hearing decisions shall be rendered as follows:
- a. The grievance officer shall render a written recommended decision within 30 calendar days of the close of the grievance hearing. The decision shall contain a summary statement of the facts, the issues involved, findings, and the basis for the decision. The County Director shall issue a written final decision adopting, rejecting, or modifying the recommended decision within ten (10) business days after the recommended decision is issued. The County Director shall explain why a recommended decision was rejected or modified.
 - b. The final decision shall be based upon the evidence presented at the hearing.
 - c. A copy of the recommended and final decision shall be sent to the following:
 - i. Each complainant that requested a grievance hearing;
 - ii. The complainant's attorney or representative, if any; and
 - iii. The California Department of Social Services.
 - d. Where the county's finding of inconclusive or substantiated abuse or neglect is changed as a result of the grievance hearing, the county shall advise DOJ of the change and request that the complainant's name be removed from the CACI or that the designation of inconclusive or substantiated abuse or neglect be changed accordingly.
6. The hearing record shall be retained for a length of time consistent with current law, regulations, or judicial order which governs the retention of the underlying record, but not less than one year from the decision date in any circumstance, and shall include the documents and other evidence accepted as evidence at the hearing.

REQUEST FOR GRIEVANCE HEARING

REFERRAL NUMBER	COUNTY OF
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No grievance hearing shall be required when a court of competent jurisdiction has determined that the suspected abuse or neglect has occurred, or when the allegation of child abuse or neglect resulting in the referral to the Child Abuse Central Index is pending before the court.

A. CONTACT INFORMATION

NAME:		DATE OF BIRTH
STREET ADDRESS:		
CITY:	STATE:	ZIP CODE:
TELEPHONE NUMBER: ()	ALTERNATE NUMBER: ()	

I hereby request a grievance hearing to dispute the decision to list my name on the Child Abuse Central Index (CACI). I acknowledge that I have received a copy of the Notice of Child Abuse Central Index Listing and a copy of the Grievance Hearing Procedures.

B. REASON FOR GRIEVANCE

The reason I am requesting a grievance hearing is because **(YOU MUST CHECK AT LEAST ONE)**:

- ☐ I am not the person who committed the alleged act(s) of abuse or neglect.
- ☐ The alleged act(s) of abuse or neglect did not occur.
- ☐ Even if the alleged act(s) occurred, these acts are not abuse or neglect within the meaning of the Child Abuse and Neglect Reporting Act.
- ☐ Other. If this box is checked, please explain below. If you need more space for your explanation, you may attach additional pages to this form.

SIGNATURE:	DATED:
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- ☐ Check this box if you would like to schedule an appointment so that you can examine the evidence the county intends to present at the grievance hearing in support of its finding of inconclusive or substantiated abuse or neglect. At this appointment, you must also bring and disclose to the county all the evidence that supports your claim that you should not be listed on the CACI.

You may have an attorney or other representative present at the hearing to assist you. If you intend to have an attorney or other representative present, please provide us with the following information.

C. ATTORNEY/REPRESENTATIVE INFORMATION

ATTORNEY OR REPRESENTATIVE'S NAME:	PHONE NUMBER: ()
ATTORNEY OR REPRESENTATIVE'S ADDRESS:	

Please return this Request for Grievance to this address:

Address:

Attn:

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

ORIGINAL
For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2009-0120-02	REGULATORY ACTION NUMBER 2009-0811-015	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Department of Social Services			

FILED

In the office of the Secretary of State
of the State of California

SEP 22 2009

 At 1:51 O'Clock P M.
 DEBRA BOWEN, Secretary of State
 By [Signature]
 Deputy Secretary of State

 AGENCY FILE NUMBER (If any)
 ORD#0608-05

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER 09, #5-8	PUBLICATION DATE 1-10-2009

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Asset Exclusion Changes and EITC Outreach in CalWORKs		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT		
	AMEND		
	40 -107, 42-213, 89-130		
TITLE(S) MPP	REPEAL		
3. TYPE OF FILING			
☒ Regular Rulemaking (Gov. Code §11346) ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) ☐ Emergency (Gov. Code, §11346.1(b)) ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) ☐ Emergency Readopt (Gov. Code, §11346.1(h)) ☐ File & Print ☐ Other (Specify) _____ ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) ☐ Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) June 16 to July 1, 2009			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) ☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ §100 Changes Without Regulatory Effect ☐ Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY ☒ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal ☐ Other (Specify) _____			
7. CONTACT PERSON Sandra Ortega, Manager	TELEPHONE NUMBER (916) 657-2586	FAX NUMBER (Optional) (916) 654-3286	E-MAIL ADDRESS (Optional) sortega@dss.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

Robert L. Garcia, Chief Deputy Director

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

SEP 22 2009

Office of Administrative Law

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 01-09) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for re adoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B).

CHANGES WITHOUT REGULATORY EFFECT

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

ABBREVIATIONS

Cal. Code Regs. - California Code of Regulations
Gov. Code - Government Code
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

Amend Section 40-107(f) to read:

Post-Hearing: Amend Section (f) (3) (A) to read:

40-107 COUNTY RESPONSIBILITY

40-107

(f) Provision of Informational Materials (Continued)

(3) Federal Earned Income Tax Credit (EITC)

(A) The CWD shall ask each CalWORKs recipient at their annual eligibility redetermination if he or she is eligible for and utilizing the federal EITC. If the recipient may be eligible for the EITC and does not use it, the CWD shall give the recipient available EITC informational material and encourage him or her to access the EITC.

HANDBOOK BEGINS HERE

(B) To encourage CalWORKs recipients to maximize their use of the EITC, CWDs may inform them that:

1. The receipt of earned income may make them eligible for the federal EITC, retroactive EITC credits, and the Advance EITC. It may also add credits toward their future social security income.
2. The receipt of the federal EITC shall not affect their CalWORKs grants and is additional tax-free income.
3. A CalWORKs recipient that receives the federal EITC may invest these funds in an individual development account, 401(k) plan, 403(b) plan, Individual Retirement Account, 457 plan, 529 college savings plan, Coverdell Education Savings Account, or restricted account. Investments in these accounts will not impact the recipient's CalWORKs eligibility or benefits.

HANDBOOK ENDS HERE

(g) (Continued)

Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613, 11209, 11265.1, 11268, 11322.5 (as adopted by AB 1078, Chapter 622, Statutes of 2007), 11323.3, 11324.8(a), (b) and ~~(c)(f)(1)~~, 11454(b) and (e), 11495.1, and 11500(b), ~~11502(b), and 11511(a)~~, Welfare and Institutions Code; Section 37 of AB 444 (Chapter 1022, Statutes of 2002); 42 USC Sections 608(a)(7), ~~682(e)(2), (3), (4) and (5)~~; 45 CFR 205.42(d)(2)(v)(A) and (B) as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808; 45 CFR 205.52(a)(1) and (2); 45 CFR 205.55; ~~45 CFR 250.20; 45 CFR 250.40(a), (b), (c)(1) and (2); 45 CFR 255.1; 45 CFR 256.1(b)~~, and California Department of Health Services Manual Letter 77-1.

Amend Section 42-213.2 and renumber Section 89-130 to Section 41-213.231(a) et seq. to read:

42-213 PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY 42-213
WHICH MAY BE RETAINED

.1 Real Property to Be Excluded (Continued)

.2 Personal Property and Vehicles to Be Excluded: The county shall determine personal property items and vehicles to be excluded in evaluating property in accordance with methods established under the Food Stamp Program (see Food Stamp regulations at Manual of Policies and Procedures Sections 63-501.3, .52, and .53) except as noted below.

.21 401(k), 403(b), 457, 529, IRA and ESA accounts shall be excluded for CalWORKs recipients.

.22 401(k), 403(b) and 457 accounts shall be excluded for CalWORKs applicants.

.23 Restricted accounts shall be excluded for CalWORKs recipients.

.231 Restricted Accounts

89-130 ~~RESTRICTED ACCOUNTS FOR RECIPIENTS~~

89-130

(a) General

An AU which includes a recipient shall be allowed to retain cash reserves ~~totaling up to a maximum of \$5,000~~ in one or more restricted accounts at a financial institution. There shall be no limit to the amount of money that can be saved in a restricted account.

(1) Additional Funds

The funds shall be in addition to the \$2,000 property limit specified in Section ~~89-120~~ 42-207.2.

(b) Written Agreement

Before an account can be designated as "restricted," the caretaker relative shall sign an agreement with the county welfare department which sets forth the requirements, restrictions and penalties specified in Section ~~89-130~~ 42-213.231.

(c) Account Information (Continued)

(4) Balance and Activity (Continued)

(f) Interest Exemption

The county shall exempt interest payments for purposes of determining AFDC CalWORKs eligibility and grant amount when the interest is deposited directly into the account by the financial institution. (Continued)

(2) Erroneous Receipt (Continued)

- (A) Failure to deposit the interest within 30 calendar days shall result in a determination that a nonqualifying withdrawal has occurred, unless good cause exists for exceeding the 30-day limit as specified in Section 89-130(j)42-213.231(j).

(g) Qualifying Withdrawal (Continued)

(4) No Expense Incurred (Continued)

- (1A) Failure to timely redeposit the funds shall result in a determination that a nonqualifying withdrawal has occurred, unless good cause exists as specified in Section 89-130(j)42-213.231(j).

(h) Verification

The AU shall provide verification of the following items within 30 calendar days from the date of expenditure:

(1) ~~Balance~~

balance prior to the withdrawal;

(21) Date and Amount (Continued)

(32) Receipts (Continued)

(i) Nonqualifying Withdrawal

~~Except as specified in Section 89-130(p)(1),~~ The the county shall determine that a nonqualifying withdrawal has occurred when:

(1) Noncooperation

the AU fails to expend funds or to provide verification of a withdrawal or expenditure within the required time limit unless good cause, as specified in Section 89-130(j)42-213.231(j), exists for exceeding the time limit;

(2) Nonallowable Purpose

the AU withdraws or spends the funds for purposes or expenses other than those allowed under ~~this s~~Section 42-213.231(g); or .

(3) Receipt of Interest Income (Continued)

(j) Good Cause

The county shall determine that good cause exists for exceeding the time limits specified at Sections ~~89-130~~42-213.231(f)(2), (g), and (h) when any of the following situations exist.

(1) Beyond AU's Control (Continued)

(l) Applying the Period of Ineligibility

Section ~~89-130~~42-213.231(l)(MR) shall become inoperative and Section ~~89-130(l)~~42-213.231(l)(QR) shall become operative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's QR/PB Declaration.

(MR) (Continued)

(QR) (Continued)

~~(1) Section 89-130(l)(1)(MR) shall become inoperative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's QR/PB Declaration.~~

~~(MR) One Month of Ineligibility~~

~~When ineligibility exists for only one month, the county shall suspend aid on the first day of the month following the nonqualifying withdrawal.~~

HANDBOOK BEGINS HERE

(m) Examples

(1) Example 1:

~~Handbook Section 89-130(m)(1)(MR) et seq. shall become inoperative and Handbook Section 89-130(m)(1)(QR) et seq. shall become operative in a county on the date QR/PB becomes~~

~~effective in that county, pursuant to the Director's QR/PB Declaration.~~

(MR) Bank balance prior to 5/96

withdrawal:	\$5,000
Amount withdrawn from account: _____	\$4,500
Amount used to purchase home: _____	\$3,000
Amount used to buy furniture: _____	\$1,500

(A) ~~Since the AU used a portion of the withdrawal on a nonallowable expenditure, the county shall calculate a period of ineligibility as follows:~~

- ~~1. \$5,000 — balance prior to withdrawal
3,000 — allowable expense for purchase of home
\$2,000 — remainder~~
- ~~2. Divide the remainder (\$2,000) by MBSAC + special needs for an AU of 3 (\$2,000 divided by \$715 = 2.79)~~
- ~~3. Round down the result to the nearest whole number (2).~~
- ~~4. The AU is ineligible for two months beginning 6/96 due to a nonqualifying withdrawal.~~

(QR) An AU of Three is in an April/May/June Quarter.

Bank balance prior to May	
withdrawal:	\$5,000
Amount withdrawn from account:	\$4,500
Amount used to purchase home:	\$3,000
Amount used to buy furniture:	\$1,500

(A) (Continued)

(2) ~~Handbook Section 89-130(m)(2)(MR) shall become inoperative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's QR/PB Declaration.~~

(MR) Example 2:

An AU of three is in the April/May/June Quarter and has the following property: (Continued)

(A) The AU wants to buy new furniture and withdraws all of their funds from their accounts, including the

restricted account, to pay for the purchases in May5/96. The county determines that the AU made a nonqualifying withdrawal.

- (B) Although the AU's total property reserve prior to the nonqualifying withdrawal is under the \$2,000 property limit, the county will calculate a period of ineligibility as follows:

1.	Balance prior to nonqualifying withdrawal in May5/96	\$1000
2.	Divide by MBSAC for 3 (\$715)	
3.	Result	1.3
4.	Round down to nearest whole number	1
	For number of months of ineligibility	

- ~~(C) Since the period of ineligibility is only for one month, aid for 6/96 will be suspended rather than discontinued. As the AU members will retain their recipient status, the higher property limits will continue to apply.~~

HANDBOOK ENDS HERE

(n) Shortening The Period of Ineligibility

The county shall shorten the period of ineligibility when the AU reapplies for aid and the standard of need increases.

(1) (Continued)

(2) Calculation

To shorten the period of ineligibility due to an increase in the standard of need, the county shall:

(A) (Continued)

- (B) Identify the original MBSAC plus any special needs allocated to the ineligible family unit and multiply it by the number of ineligible months prior to the increase. Subtract the total from the amount in Section ~~89-13042-213.231~~(n)(2)(A).

- (C) Divide the result calculated in Section ~~89-13042-213.231~~(n)(2)(B) by the increased standard of need. Round down the result to the nearest whole number.

- (D) The revised period of ineligibility is the final result in Section 89-13042-213.231(n)(2)(C) plus the number of ineligible months prior to the increase. (Continued)

~~(p)~~ — When Balance Exceeds \$5,000

~~When the restricted account exceeds \$5,000 on the first day of a month, the county shall add the excess over the \$5,000 limit to the AU's other countable property.~~

(1) Interest Payments

~~When the \$5,000 limit is exceeded solely due to the deposit of interest payment(s), the county shall:~~

- (A) ~~allow the AU to withdraw the interest payment which caused the restricted account balance(s) to exceed the \$5,000 limit; and~~
- (B) ~~not calculate a period of ineligibility for the withdrawal of the interest.~~

~~(qp)~~ Termination of the Written Agreement

The written agreement for the restricted account terminates when:

- (1) the AU is discontinued from ~~AFDC~~CalWORKs; or
- (2) (Continued)
- (3) the AU does not provide timely verification of the account information as specified in Section 89-13042-213.231(c); or (Continued)

~~NOTE: Authority cited: Sections 10553, 10554, 10604, and 11155.2 (Ch. 270, Stats. 1997), Welfare and Institutions Code. Reference: Sections 10553, 10554, 11155, 11155.2 (Ch. 270, Stats. 1997), 11265.1, and 11265.2, Welfare and Institutions Code; 45 CFR 233.20(a)(3)(i)(B); and the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994.~~

Authority cited: Sections 10553 ~~and~~ 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11155 (~~Ch. 270, Stats. of 1997~~), 11155.2 (Chapter 622, Statutes of 2007), 11155.5, 11257, 11265.1, 11265.2, and 11450.5, Welfare and Institutions Code; Sidwell v. McMahon, United States District Court (E.D. Cal.) May 7, 1990, civil no. S-89-0445; Public Laws 97-458, 98-64, and 103-286; and Federal Action Transmittal 91-23, 45 CFR 233.20(a)(3)(i)(B).